

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

LETTERS PATENT APPEAL NO. 123 OF 2010
IN
WRIT PETITION NO. 2497 OF 2005 (D)

Salahoddin Khan Aziz Khan Pathan,
..VS..
Agriculture Produce Market Committee, through its Chairman/Secretary, Cotton Market,
Yavatmal.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N. R. Saboo, Advocate for the appellant.
Shri Abhay Sambre, Advocate for the respondent.

CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.

DATED : 25th January, 2021

Heard Shri Saboo, learned counsel for the petitioner and Shri Abhay Sambre, learned counsel for the respondent.

2. Perused the pursis and the communication dated 04.03.2020. Shri Saboo, learned counsel for the petitioner submits that since the year 2010, the petitioner has not contacted with him and that his resent effort to contact him did not yield any result. He submits that presently, the status is of no instructions from the petitioner.

3. This appeal is pending since the year 2010. The respondent has filed very specific pursis bringing on record the subsequent events. These events indicate that the appellant had challenged their termination about nine years after by filing a reference and an Award of

reinstatement of the appellant in service and grant of continuity of service was passed on 22.03.2005, which was challenge in the writ petition filed by the respondent. This Award was stayed while issuing Rule. But, application under Section 17B of the Industrial Dispute Act, 1947 was allowed and the present respondent/original petitioner was directed to pay an amount equal to salary last drawn w.e.f. 02.08.2005, which was paid up to the decision of the said writ petition which came on 03.12.2009. It is submitted that since the year 2009, no salary whatsoever has been paid to the appellant and that the appellant did not approach the respondent for employing him and thus the appellant has not been in service of the respondent since then.

4. The fact that the appellant has not given any instructions in the matter would reasonably show that the appellant must be gainfully employed elsewhere or the appellant must have lost interest in this matter.

5. So, what can be inferred now is that the appellant is not in the service since the year 2009 and because of this subsequent development, the L.P.A. now has become infructuous.

6. The L.P.A. stands dismissed as infructuous. No costs.

JUDGE

JUDGE