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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10899 OF 2017

Ravindra Digambar Wani

PETITIONER

VERSUS

The Executive Engineer and Others

RESPONDENTS

.....

Mr. R. P. Bhumkar, Advocate for the petitioner

Mr. Uday S. Malte, Advocate for the respondents

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 2nd AUGUST, 2022

ORDER :

1. The petitioner is aggrieved by the order passed by the Industrial Court, Aurangabad thereby allowing Revision Application (ULP) No.7 of 2014 filed by the respondents and setting aside the order of the Labour Court passed in his favour, in Complaint (ULP) No. 3 of 2011.

2. Admitted position on record is that the petitioner has worked only for two years on daily wages with the respondents i.e. between 2007 and 2009. As the petitioner's service was terminated by the respondents, he approached the Labour Court, by filing Complaint (ULP) No. 3 of 2011 claiming reinstatement in service with continuity and back wages.

3. The Labour Court allowed the Compliant filed by the petitioner holding that prescribed procedure under section 25-F of the Industrial Disputes Act is not followed before terminating the services of the petitioner. The Labour Court, therefore, granted reinstatement to the petitioner with continuity of service and 30% back wages from the date of termination till the reinstatement.

4. Being aggrieved by the order passed by the Labour Court, the respondents approached the Industrial Court, by filing Revision Application (ULP) No. 7 of 2014. The Industrial Court set aside the order passed by the Labour Court observing that:

“12. For application of Sec.25 of I.D.Act and various sections providing retrenchment compensation, first requirement is that initial appointment must be valid and legal. If initial appointment itself is improper or illegal then, there arise no question of attracting the provisions of Industrial Disputes Act. Because no employer-employee relationship can be established on the basis of illegal appointment. In the present case before me there was even no illegal appointment, but the complainant was working on contract basis, therefore, the provisions of Sec. 25-F and 25-G cannot be attracted in present case.”

5. Hence, the present writ petition.

6. Having heard learned advocate for the petitioner and learned advocate for the respondents and taking into consideration the fact that the petitioner has reached the age of superannuation, this Court does not find any reason to disturb the order passed by the Industrial Court, in extraordinary writ jurisdiction, however, this Court is of the view that the interest of justice would be subserved by granting appropriate compensation to the petitioner.

7. The respondents are directed to pay total compensation of Rs.80,000/- to the petitioner, within a period of two months from the date of receipt of writ of this order. With these directions writ petition is disposed of.

[NITIN B. SURYAWANSHI]
JUDGE