

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3037 OF 2017

**NAVNATH NARAYAN SAYKAR
VERSUS
PUBLIC WORKS DEPARTMENT AHMEDNAGAR**

...
Advocate for Petitioner : Mr. Parag V. Barde
AGP for Respondents – State : Mr. P. N. Kutti

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 13th JULY, 2022

PER COURT :

1. The challenge in this petition is to the order passed by the Labour Court, Ahmednagar, thereby dismissing Reference (IDA)No.34/2007 filed by the petitioner.

2. At the instance of petitioner, reference was registered before the Labour Court, Ahmednagar. In the reference the petitioner contended that he was wrongly dismissed on 22/10/1985 and claimed relief of reinstatement with continuity in service and full back wages. The said reference was opposed by the respondent. During the course of hearing of the reference, though the petitioner filed his evidence affidavit, he did not care to remain present for cross-examination, the petitioner also remained absent at final hearing. The Labour Court, therefore, dismissed the reference by order dated 29/06/2012. The petitioner being aggrieved by the

same has filed the present petition.

3. Heard Mr. Parag V. Barde, learned advocate for petitioner and the learned Assistant Government Pleader for respondent – State.

4. Learned advocate for petitioner has placed reliance on the unreported decision of this Court in ***Writ Petition No.1414/2013 (Fula Bhoru Ughade Vs. Executive Engineer, Ahmednagar Irrigation Department)*** and connected matters, wherein this Court has awarded compensation of Rs.40,000/- to the petitioners in all writ petitions, which according to the learned advocate for petitioner are similarly situated like that of the present petitioner.

5. Learned advocate for petitioner by placing reliance on ***Harjinder Singh Vs. Punjab State Warehousing Corporation, AIR 2010 SC 1116***, submits that the retrenchment of petitioner was in contravention of '*last come first go*' rule. Therefore, the reference of the petitioner deserves to be allowed.

6. Learned Assistant Government Pleader on the other hand supported the impugned order. By relying upon the affidavit-in-reply filed by the respondent, he submits that the petitioner has

worked only for a period of 62 days between 01/06/1981 to 21/10/1985. He further submits that the impugned decision of the Labour Court is dated 29/06/2012 and the same is challenged by the petitioner belatedly by filing the present petition in the year 2016.

7. Learned advocate for petitioner in reply to the same submits that the petitioner was ailing and therefore, he could not approach this Court at earlier point of time. For that purpose he has filed affidavit in support of the petition and placed on record Medical Certificate dated 19/09/2016, in which it is stated that the petitioner is under treatment of Dr. Amar Shinde, Consulting Psychiatrist from 13/06/2016 for Bipolar Affective Disorder and currently he is under treatment, but fit to joint the duty.

8. Admittedly, the petitioner failed to lead any evidence and present himself for cross-examination. The Labour Court, therefore, has rightly held that the petitioner has failed to prove his case. In that view of the matter, Labour Court was justified in rejecting the reference, registered at the instance of petitioner.

9. No case is made out by the petitioner to interfere in the impugned order. In absence of any evidence led by the petitioner, it

is not possible to agree with his submission that his retrenchment is in contravention of the rule '*last come first go*'.

10. Claim of the petitioner that he is similarly situated like petitioners in ***Writ Petition No.1414/2013*** and other connected matters, is also unacceptable, as the petitioners in those petitions led evidence and by considering the evidence led by the petitioners therein, compensation was directed to be paid to them. In the present case, admittedly, the petitioner has failed to lead any evidence.

11. For the aforesaid reasons, no illegality or perversity is found in the order impugned in the present petition. Writ petition being devoid of merits, is dismissed. No costs.

(NITIN B. SURYAWANSHI, J.)