



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 WRIT PETITION NO. 6771 OF 2012

MACHINDRA WAMAN NIRMAL
VERSUS
THE EXECUTIVE ENGINEER, NASHIK IRRIGATION DIV.

WITH

WRIT PETITION NO. 6774 OF 2012
ISMAIL GULAB SHAIKH
VERSUS
THE EXECUTIVE ENGINEER, NASHIK IRRIGATION DIV.

Mr. P. V. Barde, Advocate for the Petitioner
Mr. S. B. Patil, Advocate for the respondents

CORAM : R. M. JOSHI, J.
DATE : 18th DECEMBER, 2024

PER COURT :-

1. There is no dispute about the fact that in Writ Petition No. 6774/2012, there is no challenge to the impugned judgment directing payment of compensation of Rs. 22,500/- to the respondents/ workman. Similarly undeniably the workman in the said petition as well as in Writ Petition No. 6771 of 2012 are similarly placed. Thus, there cannot be any denial of compensation to both of them.

2. Now only question arises as to what would be reasonable the compensation is to be paid to these workmen. Learned counsel for the petitioner has placed reliance on the judgment of Hon'ble Supreme Court

in case of *Divisional Controller Maharashtra State Road Transport Corporation Vs. Kalawati Pandurang Fulzele, 2022(2) All MR 460* to contend that in similar situation workmen therein were paid compensation of Rs. 3 lakhs. He also drew attention of the Court to the judgment of Division Bench of this Court in case of *Ashok Bhikanrao Deshmukh Vs. The State of Maharashtra and ors., MANU/MH/5511/2023*, wherein too the employee who had worked for two years under EGS was paid compensation at the rate of 1 lakh per year of service.

3. Learned counsel for the respondent has opposed the said contention by drawing attention of the court to the cross-examination of the workman wherein it is admitted that after termination of service they were employed and earning Rs.100/- per day. Thus, it is his contention of that it is not a fit case for grant of compensation to the workmen in Writ Petition No. 6771 of 2012 and also enhancement of compensation in Writ Petition No. 6774/2012.

4. No doubt the Hon'ble Supreme Court in case of *Divisional Controller Maharashtra State Road Transport Corporation* (cited supra) has granted lumpsum compensation to the workman who had worked for four years before termination. However, in the said case the challenge before that the Hon'ble Supreme Court was to the order of reinstatement of the workman in service with full back wages. Similarly, the judgment

of the Division Bench of this Court does not refer to the evidence recorded before the Labour Court with regard to the earnings of the workman therein in the intervening period. In considered view of this Court therefore, for the purpose of determining the amount of compensation, these two judgments would not come to any assistance of the petitioner, as facts therein differ to the one involved herein. There is admitted position that workmen after termination were working and earning. Similarly there is no completion of continuous service by them.

5. However, the fact cannot be ignored that the respondent has not challenged the order of compensation of Rs. 22,500/- directed to be paid to the workman in Writ Petition No. 6774/2012 and hence it is not permissible now for respondent to claim that workmen are not entitled to receive any compensation. Thus, they are entitled to receive compensation.

6. There cannot be any perfect arithmetic computation of amount of compensation and some guess work is required to be done. The clue can be taken from the judgment cited supra for the purpose of deciding said amount. Having regard to the totality of the case, this Court is of the view that the compensation of Rs. 25,000/- per year (i.e. total Rs.1,50,000/- will meet ends of justice. Hence, following order:

ORDER

- (i) Respondent is directed to pay compensation of Rs.1,50,000/- each to petitioner workmen.
- (ii) The impugned orders are modified accordingly.

7. Since the workman are litigating for a period over 12 years now, the respondent is directed to pay the said amount of compensation within a period of three months from today.

(R. M. JOSHI, J.)

ssp