

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.809 OF 2002**

The Sub-Divisional Engineer,
P.W.D., Sub-Division Pandharpur,
District-Solapur.

....Petitioner

V/s.

Maruti Vasant Thite, R/. Bhouse
(Karkamb)

....Respondent

Mrs. M.S. Bane, AGP for the Petitioner.

Mr. Sandeep Salunkhe for the Respondent.

CORAM : SANDEEP V. MARNE, J.

Dated : 11 July 2024.

P.C.

1) The State of Maharashtra has filed this Petition challenging the Judgment and Award dated 11 August 1999 passed by the Labour Court, Solapur in Reference IDA No.112 of 1993. The Labour Court has allowed the Reference and has directed reinstatement of the Respondent with continuity of service and back wages from 15 February 1993 till the date of his reinstatement.

2) I have heard Ms Bane, the learned AGP for the Petitioner-State and Mr. Salunkhe, the learned counsel appearing for the Respondent.

3) After having heard the submissions canvassed by the learned counsel appearing for the parties, it is seen that the Respondent was engaged as Muster Assistant only in respect of two spells of services viz. 21 August 1987 to 29 February 1988 and 2 November 1988 to 30 November 1989. It is an admitted position that after 30 November 1989, Respondent was not engaged till the Reference was raised at his instance in the year 1993. Specific stand is taken by the Petitioner -State Government that services of the Respondent were never terminated and that he stopped reporting for his work from 1 December 1989 on his own volition. This assertion on the part of the State Government is buttressed by the conduct of the Respondent in not taking any steps with regard to non-provision of any work after 30 November 1989 till he raised the dispute four years later in the year 1993.

4) While admitting the Petition, this Court has stayed both reinstatement as well as payment of back wages to the Respondent. Thus, during pendency of this Petition, Petitioner has not been engaged in service. Having worked for hardly two spells of six months and one year, it cannot be stated that any right was acquired by Respondent to remain in Government service. I am, therefore, of the view that it is now too late in day to consider Respondent's entitlement for reinstatement in service and for payment of back wages. Having worked under Employment Guarantee Scheme (EGS), which depends on availability of particular work in a particular project, it cannot be contended that the Respondent had acquired any right for being engaged on a permanent basis under the EGS.

- 5) Considering the short spells of service rendered by the Respondent, so also long passage of time since the Award dated 11 August 1999, I am of the view that the order directing reinstatement of the Respondent or for payment of back wages cannot be sustained.
- 6) Writ Petition accordingly succeeds. Award dated 11 August 1999 passed by the Presiding Officer, Labour Court, Solapur, in Reference IDA No.112 of 1993 is set aside.
- 7) Writ Petition is allowed in above terms. Rule is made absolute. No costs.

[SANDEEP V. MARNE, J.]