

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.2557 OF 2003**

The Executive Engineer, P.W.D., Chiplun,
District-Ratnagiri and Anr.

...Petitioners

V/s.

Rajendra Kashiram Jalgaonkar

...Respondent

WITH

WRIT PETITION NO.5989 OF 2003

The Executive Engineer, P.W.D. Chiplun and
Anr.

...Petitioners

V/s.

Prakash Gopal Dhamane

...Respondent

Mrs. M.S. Bane, *AGP for the Petitioner-State.*

Mr. Saurabh Pakale and Mr. Nilesh Desai i/b. Mr. Suresh Pakale, *Senior Advocate for the Respondents.*

CORAM : SANDEEP V. MARNE, J.

Dated : 20 June 2024.

P.C. :

1) By these petitions filed by Executive Engineer, Public Works Department, Government of Maharashtra, Chiplun, District-Raigad, Judgments and Orders dated 7 January 2002 passed by the Industrial Court, Kolhapur in Revision Application (ULP) Nos.433 of 1995 and 434 of 1995 are challenged.

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2) The Industrial Court has modified the Judgments and Orders dated 14 September 1995 passed by the Labour Court, Kolhapur and has awarded full back wages to the Respondents from the date of filing of respective complaints till the order of reinstatement. By Judgments and Orders dated 14 September 1995 the Labour Court, Kolhapur had directed reinstatement of the Respondent with continuity of services but without back wages. The said decision of the Labour Court was challenged before the Industrial Court both by Petitioner -employer as well as by Respondent -employees. While Petitioner -employer was aggrieved by direction of reinstatement, Respondents -employees was aggrieved by denial of back wages. Industrial Court dismissed revision application filed by Petitioner-employer and has partly allowed the revision application filed by Respondents -employees by directing that they shall be entitled to back wages from the dates of filing of the complaints till the order of reinstatement.

3) Petitioner-employer is aggrieved by the orders passed by the Industrial Court-Kolhapur on 7 January 2002 and has filed the present petitions. When the petitions came up before this Court, by orders dated 25 August 2003 and 16 September 2003, this Court granted ad-interim relief in terms of prayer clause (b) in the petitions and stayed the orders passed by the Industrial Court, Kolhapur. By order dated 26 August 2005 the petitions were admitted, and the interim order was modified by directing that there would be stay to the order for payment of back wages on the condition of Respondents being reinstated in service. It appears that in pursuance of order dated 26 August 2005, Petitioners issued order dated 31 August 2005

and reinstated Respondents in service. It appears that Respondent in Writ Petition No.2557 of 2003 (Rajendra Kashiram Jalgaonkar) has worked in pursuance of order dated 31 August 2005 and has retired on attaining the age of superannuation. Respondent in Writ Petition No.5989 of 2003(Prakash Gopal Dhamane) continues to work with the Petitioner till date.

4) I have heard Ms. Bane, the learned AGP appearing for the Petitioner - State and Mr. Saurabh Pakale, the learned counsel appearing for the Respondents in both the petitions.

5) After having heard the submissions canvassed by the learned counsel appearing for the parties as well as after considering the interim order granted by this Court while admitting the petitions read with order of reinstatement dated 31 August 2005, in my view the direction for reinstatement of the Respondents need not be disturbed at this stage in view of the fact that they have been reinstated in service from 31 August 2005. One of the Respondents has already retired from services and other one still continues to work as a daily wager. Since Respondents have worked for a substantial period of time after their reinstatement, it would not be appropriate to now disturb the reinstatement. Therefore, no fault can be found in the order of the Labour Court and Industrial Court directing reinstatement of the Respondents.

6) This leaves the issue of payment of back wages. As observed above, the Labour Court had initially denied back wages to the Respondents by its order dated 14 September 1995 while ordering their reinstatement. Industrial

Court modified the decision of the Labour Court and has awarded back wages from the date of filing of complaints till the date of reinstatement. The complaints were apparently filed on 30 December 1992. Therefore, the issue of payment of back wages from 30 December 1992 till their reinstatement dated 31 August 2005 now remains to be decided. It appears that Respondents had rendered only few years of service before they approached the Labour Court with their grievances. So far as Writ Petition No.2557 of 2003 is concerned, the Respondent therein was engaged as Chowkidar on 12 January 1987 and his services were terminated on 29 March 1989. He thus, served only for a period of 2 years. In pursuance of the directions of Labour and Industrial Courts, both the Respondents are already in service and have worked from 31 August 2005. In my view considering the length of services rendered by Respondents, it would not be appropriate to award full back wages to them for unduly long period from 1992 to 2005. Such a directions would also put financial burden on public exchequer. In my view instead of awarding full back wages to the Respondents during the period from 30 December 1992 till their reinstatement on 31 August 2005, ends of justice would meet if a lumpsum compensation is awarded to them in lieu of back wages.

7) I accordingly proceed to pass the following order:-

(i) Impugned Judgments and Orders of the Labour Court and Industrial Court are not disturbed to the extent of directions for reinstatement of Respondents.

(ii) However, direction of the Industrial Court for payment of back wages till date of filing of complaint i.e. 31 August 2005 is

modified and shall stand substituted with a direction that Petitioner shall pay to the Respondents lumpsum compensation of Rs.3,00,000/- each in lieu of backwages. The amount of compensation shall be paid to the Respondents within a period of 8 weeks from today.

(iii) Entire period from the date of filing of the complaint till reinstatement on 31 August 2005 shall be treated as the period spent on temporary duty by the Respondents.

8) With the above observations both the writ petitions are disposed of.

[SANDEEP V. MARNE, J.]