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

WRIT PETITION NO.4181 OF 2020

Ganpat Namdev Wagh,
Age: 56 years, Occu: Labour,
R/o. Waghacha Akhada, Tq : Rahuri,
Dist. Ahmednagar

....PETITIONER

VERSUS

1. Maharashtra State Co-operative
Marketing Federation Ltd.,
Kanmoor House, Narsi Natha Street,
Mumbai 400 009
Through its Managing Director

2. Vaibhav Cattle Food Factory At Nepti,
Taluka and District Ahmednagar,
Through its Manager

....RESPONDENTS

....

Mr Parag V. Barde, Advocate for petitioner
Ms S. T. Jadhav, Advocate h/f Mr D. N. Suryawanshi, Advocate, for
respondents

CORAM : PRAFULLA S. KHUBALKAR, J.

RESERVED ON : 24th June, 2025

PRONOUNCED ON : 07th July, 2025

JUDGMENT :

1. Heard. Rule. Rule made returnable forthwith. Heard
finally by consent of the parties.

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2. Heard Advocate Mr Barde, learned counsel for the petitioner and Advocate Ms Jadhav, holding for Advocate Mr Suryawanshi, learned counsel for the respondents.

3. By this petition, the petitioner has challenged the award dated 26/03/2018, passed by the Presiding Officer of the First Labour Court, Ahmednagar, to the extent of clause (3) of the operative order, by which, compensation of Rs. 1,50,000/- in lieu of reinstatement, continuity of service and back wages is granted, alleging this to be inadequate compensation. By this petition, the petitioner is seeking an enhancement of compensation based on the facts and grounds pleaded in the petition.

4. Advocate Mr Barde, learned counsel for the petitioner submits that the petitioner was employed with the respondents and was illegally terminated. The petitioner has, thereafter filed reference under Section 10(1)(c) of the Industrial Disputes Act, 1947 and the matter was referred before the First Labour Court, Ahmednagar, vide Reference (I.D.A.) No.67/2007. It is submitted that the parties had laid evidence in the reference case and the learned Labour Court has recorded categorical finding that there existed an employer-employee relationship between the petitioner and the respondents. On

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appreciation of the evidence on record, the Labour Court has also gave a categorical finding that the petitioner/employee was illegally terminated by the respondents by oral order dated 17/10/1996. It is pointed out that, after appreciation of evidence, the Court has specifically observed that the termination of the petitioner/employee was illegal, improper and bad in law on account of non-compliance with the provisions of Section 25(F) of the Industrial Disputes Act, 1947. It is submitted that, despite this categorical finding, in order to strike balance, since reinstatement could not be ordered as the factory was closed down, the respondents are directed to pay compensation of Rs.1,50,000/- (One Lakh Fifty Thousand only). It is vehemently submitted that the petitioner had worked with the respondents from January 1994 to 17/10/1996 and the compensation granted by the Labour Court is grossly inadequate.

5. Advocate Mr Barde for the petitioner submits that, in view of the categorical finding of the termination of the petitioner being illegal, the Labour Court ought to have granted compensation to the petitioner after considering the position of law requiring consideration of the period of service. In support of his submissions, he relies on the judgment in the matter of **Ashok Bhikanrao Deshmukh Vs. The State of Maharashtra and others**, [2024 MCR

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135 : 2024 (2) SLR 111], relying on which, the learned Single Judge of this Court has decided Writ Petition No.8032/2020 on 15/10/2024 in the matter of **State of Maharashtra Vs. Nilkant Ramchandra Sonwane**. By inviting Court's attention to the position of law laid down in these judgments, he submits that the petitioner is entitled for compensation @ Rs.1,00,000/- per year of service.

6. Per contra, Advocate Ms Jadhav for respondents strongly opposes the petition. She submits that the petitioner had worked for a very short period of less than three years with the respondents and he has also admitted categorically that, during the pendency of the proceeding, he has been earning wages of Rs.100/- per day. She submits that the petitioner had raised the stale claim, which ought not to have been entertained, particularly, in view of the fact that the factory of the respondents was already closed down and there was no question of reinstatement.

7. Rival contentions thus fall for my consideration.

8. It is pertinent to note that the petitioner's grievance in the petition is with respect to the part of the award related to quantum of compensation. There is no dispute that the petitioner has worked from January 1994 to 17/10/1996. It has to be noted that the reference made

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by the petitioner was firstly adjudicated by the Court on 18/09/2012. The respondents herein had challenged the said order by filing Writ Petition No.4334/2013 before this Court and the matter was remanded back for framing proper issues. Thereafter, the proceedings were conducted afresh and the final award dated 26/03/2018 was passed. As such, the parties were litigating during the entire period and the petitioner was required to contest second round of litigation for establishing the illegality of the termination. As such, the contentions of the respondents that the petitioner has raised a stale claim appear to be baseless.

9. It is crucial to note that the Labour Court has recorded categorical finding that the termination of the employee was illegal, improper and bad in law for non-compliance of the provisions of Section 25(F) of the Industrial Disputes Act, 1947. The respondents have not raised challenge to this finding. Thus, in view of the fact that the factory of respondents was closed down and reinstatement was not possible, the petitioner became entitled for award of appropriate compensation in lieu of reinstatement, continuity of service and back wages. The reasoning of the Labour Court, Ahmednagar, while considering this issue and awarding Rs.1,50,000/- as compensation, by

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considering the petitioner's earning as daily wager to Rs.100/- per day, appears to be unsound. It has to be noted that, when the employee was terminated, he was not expected to starve and his earning of Rs.100/- per day as daily wages, cannot be considered to be a gainful employment.

10. As regards the issue of factors to be considered while granting compensation in lieu of reinstatement, a profitable reference needs to be made to the judgment of **Ashok Bhikanrao Deshmukh** (supra). The Division Bench of this Court, after considering various judgments of the Hon'ble Supreme Court has clarified the position in paragraph Nos.13 to 15, which are reproduced below :-

"13. The Hon'ble Supreme Court has held in (1) Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal - [2013 LLR 1009], (2) Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh - [(2013) 5 SCC 136], (3) BSNL Vs. Man Singh - [(2012) 1 SCC 558] and (4) Jagbir Singh Vs. Haryana State Agriculture Marketing Board - [(2009) 15 SCC 327], that if an employee is working for a very short period and is out of employment for a long duration, granting reinstatement in service or absorption would be impracticable. Instead, he could be granted compensation for the number of years of service that he has put in. The learned AGP vehemently opposes grant of compensation on the ground that when an EGS worker is not entitled for any benefits, merely because he is litigating, he should not be granted any compensation.

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14. *The judgments referred to herein above, were delivered in between 2009 and 2013 when the Hon'ble Supreme Court directed compensation between Rs.40,000/- to Rs.50,000/- per year of service put in by the employee. We are inclined to enhance the compensation amount since the Petitioner has worked for two years and is litigating for the last about 37 years. He has reached the age of 60 years as on date. It also cannot be ignored that, after his oral engagement on daily wages on EGS, was concluded within two years in December 1986, he approached the Labour Court under the [Industrial Disputes Act](#) in 1994.*

15. *In view of the above, notwithstanding that the Petitioner has failed to make out a case, we are inclined to grant him compensation at the rate of Rs.1,00,000/- per year of service that he has put in, only in view of that fact he has been litigating all these years.”*

11. In view of the position of law emanating from the above mentioned judgment of the Division Bench, it can be fairly inferred that the petitioner is entitled for compensation @ Rs.1,00,000/- per year of service, which he has undisputedly put in. In the instant case, the petitioner is litigating since several years and was required to contest two rounds of litigation. Therefore, in my considered opinion, the petitioner is entitled for compensation of approximately @ Rs.1,00,000/- per year of his service.

12. On consideration of the entire factual and legal aspects and submissions advanced by the parties, the petitioner is held entitled

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for award of compensation of Rs.2,50,000/- (Rs. Two Lakh Fifty Thousand only) in lieu of reinstatement, continuity of service and back wages. The impugned award dated 26/03/2018 passed by the First Labour Court, Ahmednagar stands modified to this extent.

13. The compensation amount of Rs.2,50,000/- shall be deposited by the respondents before the Labour Court, Ahmednagar, within a period of eight weeks from the date of uploading of this order. The petitioner will be entitled to withdraw the same.

14. The writ petition is partly allowed and disposed of. No order as to costs.

15. Rule is made partly absolute.

(PRAFULLA S. KHUBALKAR, J.)

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