



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

WRIT PETITION NO. 5338 OF 2020

DRAUPADABAI KISAN DALVI

VERSUS

SOCIAL FOREST DEPARTMENT, AHMEDNAGAR THROUGH ITS DEPUTY
DIRECTOR

...

Mr. Parag Vijay Barde, Advocate for the Petitioner

Ms. D.S. Jape, AGP for Respondents/State

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CORAM : MANJUSHA DESHPANDE, J.

DATE : 25th FEBRUARY, 2025

PER COURT :

1. In this petition the petitioner is challenging judgment and award dated 02/11/2018, passed by the Labour Court, Ahmednagar, in Reference (IDA) No.07/2016, only to the extent of granting meager monetary compensation in lieu of reinstatement of petitioner.

2. Case of petitioner before the Labour Court was that she had started serving with respondent on daily rated wages. Her last post was labourer and she was drawing daily wages of Rs.10/- per day. Respondent is Government undertaking which is engaged in the business of plantation of trees, protection and conservation of forests. Petitioner rendered continuous and unblemished services till 01/02/1993. She worked for more than 240 days in each year during her tenure. However, keeping junior employees in the employment, her services have been orally terminated since 01/02/1993. Neither

notice was issued to her, nor notice-pay, retrenchment compensation or any other benefits were extended to her while terminating her services. According to petitioner the Union had filed Complaint (ULP) No.88/1992 for pursuing claim of permanency in respect of similarly situated employees. Unfortunately said claim was dismissed in default on 16/01/1999 and petitioner was not aware about it. Petitioner has raised the industrial dispute by filing statement of claim on 20/07/2016, before the Labour Court, Ahmednagar, in Reference (IDA) No.07/2016. Respondent has caused appearance in the proceedings and denied the claim of petitioner. Petitioner had called upon respondent to produce the service record details, which was duly produced. From perusal of service record it was evident that respondent had terminated petitioner in violation of Section 25(F) and (G) of the Industrial Disputes Act. The Labour Court by order dated 02/11/2018 has pleased to hold that termination of petitioner was illegal.

3. So far as issue relating to whether she is entitled for reinstatement with continuity in service and full back wages from the date of termination is concerned, the Labour Court has held that she is not entitled for reinstatement with continuity in service and full back wages from the date of termination. It is observed by the Labour Court that petitioner has rendered short service of about three to six years and is unemployed since last about 20 to 25

years. Therefore, relief of reinstatement can be moulded and monetary compensation can be given to petitioner in lieu of reinstatement in services. It is observed that though petitioner has worked since December, 1986 till January, 1993, amongst these years the years 1986, 1990, 1991, 1992 and 1993 are out of consideration as she has not rendered services for sufficient length of time in those years. Petitioner is held entitled to receive compensation of Rs.30,000/- per year for the services rendered for three years. Resultantly, the Court has directed to grant compensation of Rs.30,000/- per year and respondents were directed to pay the compensation of Rs.90,000/- to petitioner in lieu of reinstatement.

4. Learned advocate for petitioner submits that compensation of Rs.90,000/- in lieu of reinstatement is a meager amount in view of the finding recorded by Labour Court that termination of service of petitioner was in violation of Section 25(F) and (G) of the Industrial Disputes Act. The Labour Court should have granted sufficient amount of compensation in lieu of reinstatement. He submits that, in fact, the petitioner has worked for more than six years with respondent and compensation is directed only to the extent of three years. Therefore, compensation should have been quantified at least @ Rs.50,000/- per year.

5. Learned advocate for petitioner submits that the order

passed by Labour Court requires to be modified only to the extent of enhancing compensation @ Rs.50,000/- per year instead of Rs.30,000/-. In support of his submission he has relied in case of ***State of Uttarakhand and Another Vs. Raj Kumar***, reported in ***2019 (5) Mh.L.J. 10***. According to him, respondent in that case was the complainant who was identically placed. In that case, respondent worked as Beldar in the State PWD Department as a daily wager for about a year from June 1986 to May 1987 and thereafter his services were brought to an end by the State without following due procedure prescribed in law. He has filed proceedings in Labour Court after 25 years against his termination. Labour Court has awarded monetary compensation of Rs.30,000/- in full and final satisfaction to respondent against his reinstatement, which was challenged before the High Court of Uttarakhand and High Court modified the award of Labour Court by directing reinstatement of respondent. This decision of the High Court was challenged before the Hon'ble Supreme Court and the Hon'ble Supreme Court has enhanced amount of compensation to Rs.1,00,000/- to the workman in lieu of reinstatement and back-wages. It is contended that the petitioner is similarly placed and she also deserves to be granted enhanced compensation at the rate of Rs.50,000/- per year.

6. Learned advocate for petitioner has also relied on the decision of the Hon'ble Supreme Court in case of ***Divisional***

Controller Maharashtra State Road Transport Corporation Vs. Kalawati Pandurang Fulzele, reported in **2022 (22) All.M.R. 460**, wherein lumpsum compensation of Rs.3,00,000/- was directed to be paid to the respondent in lieu of reinstatement and back wages.

7. Reliance is also placed by petitioner in case of ***Bhavnagar Municipal Corporation etc. Vs. Jadeja Govubha Chhanubha and Another***, reported in **2015 AIR (SC) 609**. In this case, respondent who was working as a Conductor with appellant Corporation had filed industrial dispute before the Labour Court. The Labour Court held that termination of respondent from services was illegal and directed reinstatement with 60% back-wages. Being aggrieved by the award passed by Labour Court, appellant Corporation filed Special Civil Application before the learned Single Judge of the High Court of Gujarat at Ahmedabad. The High Court set aside the award to the extent of award of 65% back-wages holding that Labour Court had not given any cogent reasons while awarding back-wages. Labour Court has failed to examine whether respondent was gainfully employed during the intervening period. On this ground award of the Labour Court to the extent of directing 60% back-wages was held to be perverse by the learned Single Judge of the High Court. Order passed by the learned Single Judge of the High Court was challenged before the Division Bench and

Division Bench has dismissed the appeal holding that there is no perversity in the findings recorded by the learned Single Judge. Order passed by the High Court was, therefore, challenged before the Hon'ble Supreme Court. The Hon'ble Supreme Court has set aside the order passed by the High Court and granted compensation of Rs.2,50,000/- in lieu of reinstatement. It was held that reinstatement of respondent in service does not appear to be acceptable option, therefore, keeping in view length of service rendered by respondent granting compensation of Rs.2,50,000/- would sufficiently meet the ends of justice.

8. Learned AGP has vehemently opposed the prayer made by the petitioner and submitted that grant of compensation to the petitioner itself is not proper. However, whatever compensation has been awarded is paid to the petitioner on 16/12/2019 itself. Learned AGP has placed on record affidavit in reply on behalf of respondent.

9. Fact remains that, in all the judgments relied by petitioner the Hon'ble Supreme Court has enhanced compensation granted by the Labour Court or the High Court to the considerable extent. The common thread while enhancing the compensation in lieu of reinstatement in all the decisions rendered by the Supreme Court appear to be the wrongful termination by the employees wherein it is not possible to grant reinstatement, due to passage of time, taking into account the method of appointment, nature of

service and length of service rendered in case of each individual the compensation is awarded.

10. Upon going through the judgments of the Hon'ble Supreme Court it can be discerned that, taking into consideration the relevant factors the Hon'ble Supreme Court has enhanced the compensation. In present case, amount of Rs.30,000/- per year seems to be a meager amount. Therefore, in my opinion, ends of justice would meet by enhancing compensation quantified by the Labour to Rs.50,000/- per year.

11. Hence, the writ petition is allowed by modifying the judgment and award dated 02/11/2018, passed by the Labour Court, Ahmednagar, in Reference (IDA) No.07/2016, by directing to award compensation in lieu of reinstatement to the petitioner at the rate of Rs.50,000/- per year instead of Rs.30,000/-. The amount already paid to the petitioner shall be adjusted from the amount of compensation receivable by her. The amount admissible to petitioner shall be paid within a period of eight weeks from today.

(MANJUSHA DESHPANDE, J.)