



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

17 WRIT PETITION NO. 348 OF 2019

Mehboob Amir Shaikh

VERSUS

Ahmednagar Municipal Corporation Through It's
Commissioner

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Advocate for Petitioner : Mr. P. V. Barde

Advocate for Respondents : Mr. V.S. Bedre

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : August 04, 2025

PER COURT :-

1. The petitioner impugns the order dated 20.7.2017 passed by learned Member, Industrial Tribunal, Ahmednagar in Reference (IT) No.6 of 2014, by which Reference has been rejected.

2. Mr. Barde, learned advocate appearing for petitioner submits that, present case is a clear example of violation of section 25-G of the Industrial Disputes Act (for short the said Act), which mandates employer to follow the ordinary rule that, in case of retrenchment of workman, who was appointed last in that category can be retrenched first.

3. In the present case, petitioner has given details of many junior employees, who were continued and absorbed in service thereby declining legitimate consideration of petitioner's claim. He would further submit that learned Industrial Court has failed to consider the effect of section 25G of the said Act and rejected Reference, observing that protection under section 25F would not be available to petitioner as he had not put in the requisite length of continuous service.

4. Per contra, Mr. Bedre, learned advocate appearing for respondent submits that Reference is rejected on two counts. Firstly, petitioner cannot claim any right in terms of section 25F of the Act. Secondly, challenge to termination or discontinuation of service effected in December 2001, is belatedly raised in the year 2014. He would therefore urge that there is no merit in this writ petition.

5. Having considered submissions advanced, it can be observed that petitioner filed Reference alleging that he was employed with Respondent/Corporation during period from 1987 to 2001. The learned Industrial Court has recorded details of his employment and observed that from the year

1987 till 2001, petitioner was casually employed for few days in a year ranging from 12 days to 188 days. Lastly, petitioner rendered services of 152 days in the year 2001. Present reference is made sometimes in the year 2014. Apparently, Reference is made belatedly without incorporating any explanation or reasons for such delay. At this stage, reference can be given to section 10(1) of the Industrial Disputes Act, which reads as under :-

10. Reference of disputes to Boards, Courts or Tribunals.

(1) [Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time], by order in writing,

(a) refer the dispute to a Board for promoting a settlement thereof; or

(b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or

[(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or

(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication.

6. In that view of the matter, Industrial Court is justified in observing that such a claim cannot be entertained. Apparently, the stale claim was referred. Even, at the time of reference, it is necessary on the part of competent authority to see that Industrial Disputes exists between the parties. If such a dispute does not exist at all, the reference itself would not be maintainable.

7. In the present case, delay in raising the dispute after fourteen years of discontinuation from service, taking resort to section 25-G of the said Act cannot be countenanced.

8. In that view of the matter, there is no merit in this writ petition. Hence, writ petition stands **rejected**.

(S. G. CHAPALGAONKAR)
Judge

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