



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2623 OF 2020

The Chief Engineer And Administrator
Labhshetra Vikas Pradhikaran & anotherPetitioners

VERSUS

Prabhakar Sheshrao KharadRespondent

Mr. S. P. Sonpawale, AGP for the Petitioner.
Mr. P. V. Barde and Mr. P. S. Mantri, Advocates for the Respondent.

CORAM : R. M. JOSHI, J.
DATE : 7th OCTOBER, 2025.

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.
2. This Petition arises out of order passed by the Labour Court in Reference IDA No. 53/2009.
3. It was the case of Respondent herein before the Labour Court that he is a project affected person and was appointed as Incharge Mistri by Petitioner on 25.08.1981 on daily wage of Rs. 15.25. He further claims to have been continuously working till his termination effected on 01.10.1984. It is the case of the

Respondent that before the Labour Court that he had completed 240 days of service prior to his illegal termination. It is alleged that the Petitioner has intentionally closed down its division and on false ground the termination of Respondent came to be effected. It is claimed by Respondent that the Government had decided to absorb retrenched employees as per seniority list and accordingly, circular was issued to that effect, however the mandatory provisions of Sections 25G and 25H of the Industrial Dispute Act were not followed. On these averments amongst other grounds, termination came to be challenged before the Labour Court in the above proceeding.

4. Petitioner-Employer filed written statement before the Labour Court and disputed employer-employee relationship. It is claimed that Respondent was never employed as a workman though he might have been employed by Executive Engineer of the concerned division. It is claimed that after the project of Jaikwadi came to be completed, several labourers who became surplus were absorbed on humanitarian ground. It is claimed that the Petitioner is not an industry. There is also objection raised to challenge to the alleged retrenchment after period of 24 years. Learned Labour Court, after

hearing both sides, answered the reference partly in affirmative. It was directed to the Petitioner herein to absorb the Respondent by adopting requisite procedure, but denied any backwages.

5. This order passed by the Labour Court on 08.02.2013 was not taken exception to for a period of six years. There is material evidence placed on record in the form of documents indicating that all throughout the period from award till its challenge in this Petition, it was posed to the Respondent that the Government is accepting the award of the Labour Court and appropriate steps are being taken for his absorption in service. It is only after the Respondent has attained age of superannuation, present Petition came to be filed taking exception to the said order.

6. At the outset, learned counsel for the Respondent has raised objection with regard to the maintainability of the Petition on the ground that the same is barred by limitation. It is his submission that the Petitioner has failed to make out any case for condonation of delay and in the facts of the case, the delay is not condonable.

7. Learned AGP sought to justify the delay caused in filing of the Petition by referring to paragraph No. 15 of the Petition. Perusal of said paragraph indicates that a general reason is sought to be given that a proposal was submitted to the head office and after receipt of opinion the matter was referred to Law and Judiciary department for opinion and on receipt of the opinion, the Petition came to be filed. Though there is no period of limitation prescribed for filing of the Petition against any order before this Court, however, in view of settled position of law by the Supreme Court in various judgments, the Petition must be filed in reasonable time. Such reasonable time is considered to be three years and though in appropriate cases said delay can be condoned.

8. Having regard to the facts brought on record and more particularly from the documents placed by learned counsel for Respondent before this Court, there is reason to believe that the Respondent being project affected person was entitled for absorption in view of Government Resolution dated 10.10.1984 and Petitioner at all point of time had given understanding to the Respondent about acceptance of the award passed by the Labour Court. It is after period of six years of passing of the said award the same is sought to

be challenged. It is argued on behalf of the Petitioner that considering the fact that there would be financial burden on public exchequer, the delay may be condoned. Ordinarily this Court would have rejected the contention of learned AGP however, considering the fact that the Respondent has already attained the age of superannuation, there would be no absorption of Respondent in the employment, this Court finds it appropriate to entertain the Petition subject to payment of cost of Rs. 25,000/- payable to the Respondent. It is clarified that the cost be recovered from the concerned officers who were responsible for not filing the Petition within a period of three years and it shall not be paid from the taxpayers money.

9. On merit, learned AGP submits that after the Respondent has attained the age of superannuation, nothing would survive in the directions issued by the Labour Court. It is argued that considering the short period of service undergone by the Respondent, reasonable amount of compensation can be granted to him.

10. Learned counsel for Respondent has drawn attention of the Court to the judgment in case of State of Uttarakhand and another vs. Raj Kumar, **(2019) 14 Supreme Court Cases 353**

wherein, according to him, in the similar set of facts, compensation of Rs. 1,00,000/- came to be granted in lieu of reinstatement since the worker therein had worked for a period of one year. According to him, since in this case the Respondent has worked for two years, he is entitled for compensation of Rs. 2,00,000/-.

11. Learned Labour Court while passing the impugned award has recorded finding that the Respondent is a project affected person and his land is acquired for Jaikwadi project. It is further held that the Respondent has made out a strong case of being eligible for absorption however, has not been absorbed by the Petitioner-employer. It is thus held that there is non-compliance of the Government Resolution so also provisions of Section 25H of the Industrial Dispute Act. The Labour Court, therefore, denied backwages to the workman however, directed for his absorption.

12. Petitioner has failed to make out any case to cause interference in the said observations made by the Labour Court. Apart from the evidence led before the Labour Court, the document placed before this Court in the form of communication even after passing of the impugned award indicates that the findings recorded

by the Labour Court were correct and in consonance with the material evidence on record.

13. Considering the fact that Respondent has already attained age of superannuation, there is no question of now he being absorbed in the service. Thus, by following the judgments in case of State of Uttarakhand (supra) and Satish Wamanrao Lewate vs. Sarpanch, Gram Panchayat, Shirsgaon (Kasba) and another, **2021(1) Mh.L.J. 268**, the impugned order is modified. The Petitioner is directed to pay lump sum compensation of Rs. 2,00,000/- to the Respondent. This compensation of Rs. 2,00,000/- is in addition to the amount of cost of Rs. 25,000/- to be paid for condonation of delay. Considering the age of Respondent and long time spent in litigating, Petitioner to pay these amounts within a period of 8 weeks from today. Non-payment of the same would entail consequences as provided by law.

14. Petition stands disposed of in above terms.

(R. M. JOSHI)
Judge