



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.7188 OF 2016

Raju Ganpatrao Maraskolhe
Aged about 54 years, Occ: Nil,
R/o Chaprashipura, Teli Chawl,
Camp, Amravati.

..... **PETITIONER**

...V E R S U S...

1. The Plantation Officer,
Social Forestry, Chaparashipura,
Amravati.
2. Deputy Director, Social Forestry,
Division, Amravati.

..... **RESPONDENTS**

Ms. P. D. Rane, Advocate for Petitioner.
Mr. H. D. Futane, AGP for Respondent Nos.1 and /State.

CORAM: **R. M. JOSHI, J.**
DATE: **23rd JUNE, 2025.**

ORAL JUDGMENT:

1. By consent of both the sides, petition is heard finally
at the stage of admission.
2. This petition takes exception to the award passed by
the learned Labour Court in Reference I.D.A. No.151/1995
rejecting the reference and denying the relief of reinstatement to
the workman.

3. The parties are referred to as workman and employer for the sake brevity.

4. The facts giving rise in brief as under.

5. It is the case of the workman that he was appointed on daily wages since 01.10.1987 to 31.12.1991 continuously i.e. without any break and was receiving wages of Rs.8.80 per day. He further claims that his name was recorded on muster roll and that he rendered in continuous service to the employee. According to him, on 01.01.1992 he came to be terminated from service by retaining junior employees than him and the termination has been effected without following provisions of Section 25(F) and 25(G) of the Industrial Disputes Act.

6. The employer resisted the claim by filing written statement. There is a specific denial of the fact that the services of the workman are terminated in violation of the mandatory provisions of the Industrial Disputes Act. It is claimed that he was appointed on daily wages and as and when available work was provided to him.

7. With these pleadings workman examined himself and on behalf of the employer Plantation Officer was examined.

The learned Labour Court rejected the reference by holding that the workman has failed to discharge initial burden of proving he being completed 240 days of continuous service and also the fact that he was in fact terminated orally as claimed. Finding is also recorded that on the basis of the evidence of the workman it can be said that any junior to him was retained in the service. Thus, it is held by the learned Labour Court that this is not the case of non-compliance of Section 25(F) and 25(G) of the Industrial Disputes Act.

8. Heard learned Counsel for both sides.

9. It is a contention of the learned Counsel for the petitioner that the workman has discharged initial burden by entering into the witness box and by claiming that he has rendered 240 days of continuous service. It is her submission that in the light of this fact, order passed by the learned Labour Court below Exh.12 assumes relevant. It is submitted that the workman had called upon the employer to produce the necessary documents which were directed to be produced by the learned Labour Court but the employer has failed to place it on record. It is her submission that since these documents are not placed on record, the burden on the employer to substantiate his case is not

discharged.

10. It is submitted that the learned Labour Court has placed undue reliance on letter dated 09.08.1994 wherein it is stated that the workman has completed 184 days service only and that the said letter has not been replied/denied by the workman disputing this contention of employee. On these among other submissions the impugned order is sought to be set aside.

11. Learned AGP supported the impugned order.

12. There cannot be any dispute made with regard to the position of law that the initial burden would be on the workman to prove that he is orally terminated and the said termination is contrary to the provisions of the Industrial Disputes Act. Apart from this there would be initial burden on the workman only to substantiate that he has rendered 240 days of continuous service.

13. As recorded in the order passed by the learned Labour Court, except for his words that he has completed 240 days of service, there is absolutely no evidence placed on record. It was open for him to examine at least co-worker to substantiate his fact if he had no documentary evidence with him. Apart from this on the point of oral termination it is recorded by the trial Court that

the workman was not even able to show as to who has terminated his services. Moreover, cognizance of the fact has been taken that the dispute itself in respect of the said termination has been raised after more than two years and five months. In the light of this fact the learned Labour Court has held that the case of the workman of oral termination does not deserve consideration.

14. The learned Labour Court has placed reliance on the letter dated 09.08.1994 wherein it is claimed before the Conciliation Officer that the workman had worked 184 days. Pertinently this is not only reason for which the claim of the workman has been rejected. The workman's knowledge about the said stand of employee can not be disputed. This contention of employee is not sought to be rebutted by the workman during proceedings before Labour Court. It at least would have been stated on oath that the contention of employer is not correct.

15. In so far as contention of workman about junior to him being retained in service, the same gets falsified from his own admission in the persons who are claimed to have been retained are senior to him. This finding recorded by Labour Court is in consonance with the evidence on record and requires no interference.

16. This Court in exercise of writ jurisdiction, unless the finding recorded by the learned Labour Court are shown to be perverse being contrary to the evidence on record or the legal position, cannot cause interference therein nor it would be open to this Court to substitute his own opinion against the opinion/findings of facts recorded by the learned Labour Court.

17. Hence there is no merit in the petition. Petition stands dismissed.

(R. M. JOSHI, J.)