



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

WRIT PETITION NO.4082 OF 2013

WITH

CIVIL APPLICATION (CAW) NO.3233 OF 2024

PETITIONERS :- 1 Sub-Divisional Officer, Public Works
Sub-Division, Karanja (Lad), Tq.
Karanja, Dist. Washim.
2 Executive Engineer, Public Works
Department, Washim, Dist. Washim.
3 Superintending Engineer, Public Works
Circle, Akola, Tq and Dist. Akola.

..VERSUS..

RESPONDENTS :- 1 Mahadeo Tukaram Meshram,
Aged about: 42 years,
Occ: Nil, r/o Katepurna Rly. Station,
Post: Kurankhed, Tq. and Dist. Akola.
2 The Labour Court, Akola.

Mr. S. B. Bissa, AGP for Petitioner(s)/State.

Mr D. A. Sonwane, Advocate for the Respondent No.1.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **19.11.2025**

1. Present petition is filed in order to challenge award dated 27.11.2012 passed by the learned Labour Court, Akola in IDA Case No.56 of 2006 by which the learned Labour Court

has allowed the reference, holding that the services of respondent No.1-employee were illegally terminated w.e.f. 31.10.1987 and had directed the petitioners to reinstate the said respondent in service with continuity without back-wages.

2. At the outset, it must be stated that going by the averments in the statement of claim, the respondent-employee was 42 years old as on 28.12.2006 i.e. the date on which the statement of claim is filed. By now, he has attained the age of superannuation and as such the cause in the petition with respect to prayer for setting aside direction for reinstatement is rendered infructuous.

3. Mr. Bissa, however, states that the petition should be heard on merits so as to avoid any dispute with respect to pension and other terminal dues. The respondent-employee, though duly served, has not entered appearance in the matter.

4. The case of respondent-employee is that he was appointed in service on 01.01.1982 and has continuously rendered service with petitioner No.1 till 30.10.1987. He

claims that he rendered service for more than 240 days in each calendar year during the said period and claims benefit of regularization in service as per Kalelkar Award on the ground that he has rendered more than 240 days of service in a calendar year for a period of 5 years. The petitioners opposed the claim stating that respondent-employee was appointed on temporary basis in E.G.S. Scheme on daily wages. They denied the contention that petitioner has rendered service for 240 days or more in any calendar year.

5. The learned Labour Court had directed the petitioners to produce relevant documents on record. However, the documents could not be produced on record due to fire in the office. The learned Labour Court has observed that although there was incident of fire in the office of the petitioner, the entire record was not destroyed, as could be seen from the evidence of petitioner's witnesses and therefore, the available record could be produced. In such circumstances, by drawing adverse inference the learned Labour Court has allowed the reference, granting relief of reinstatement with continuity in service. The relief of back

wages is denied having regard to the delay and also by observing that it is not possible to concede that the respondent-employee was without employment for a period of around 20 years since the date of his termination.

6. Mr. Bissa, the learned AGP contends that although period of limitation is not prescribed for making reference under Section 10 of the Industrial Disputes Act, it is well settled that reference should be made within a reasonable time. He contends that there is an inordinate delay of around 19 years for which no plausible explanation is offered by the respondent-employee. He contends that the respondent-employee also failed to bring cogent material on record to establish his contention of having rendered 240 days service in a given calendar year, continuously for a period of 5 years. He also contends that the learned Labour Court has erred in drawing adverse inference against the petitioners for not producing the documents on record in view of the enormous delay in initiating the reference.

7. I am in agreement with the submissions advanced by the learned AGP. There is a delay of around 19 years in

initiating the reference for which there is no plausible explanation. Findings recorded by the learned Labour Court will also demonstrate that the learned Labour Court has not found any justification for the said delay. It should also be mentioned that the respondent-employee failed to lead any cogent positive evidence from his side to prove his contention. As regards adverse inference to be drawn against the petitioners, the learned Labour Court ought not to have drawn adverse inference in the present case, having regard to inordinate delay on the part of the respondent/employee in approaching the labour Court and also in view of the fact that the incident of fire in the office was duly proved and also accepted by the learned Labour Court. Perusal of the record will demonstrate that the respondent-employee failed to prove his contention of having worked for a period of 240 days in a calendar year for a period of 5 years and as such the learned Labour Court has erred in allowing the reference.

8. In view of reasons recorded above, the petition deserves to be allowed and also allowed by quashing and setting aside the award dated 27.11.2012 passed by the

learned Labour Court, Akola in IDA Case No.56 of 2006. The rule is made absolute in above terms.

9. The learned Advocate for the respondent No.1 is appointed by the High Court Legal Services Sub-Committee, Nagpur; therefore, the fees of the learned counsel for respondent No.1 be quantified as per the Rules.

CIVIL APPLICATION (CAW) NO.3233 OF 2024

10. Civil Application No.3233 of 2024 is filed by the respondent No.1 employee under Section 17B of the Industrial Disputes Act, 1947. He states that all throughout period while the present petition is pending, he was not gainfully employed elsewhere. The said statement is made on affidavit. In view of the above, the respondent No.1 will be entitled to benefit of Section 17B of the Industrial Disputes Act, 1947.

11. According to respondent No. 1, his last drawn wage was Rs.270.40 per month. The respondent No.1 has mentioned his age in the application as 60 years. He has attained the age of 58 years which is the age of superannuation in the year 2022. The date of birth of

respondent No.1 cannot be ascertained from record. The learned Advocate for the respondent No.1/employee is not aware about the exact date of birth of the respondent No.1.

12. In that view of the matter, 31.12.2022 is considered as his date of superannuation. The present petition is filed in the month of July, 2013. The respondent No.1 is therefore, entitled to receive amount at the rate of Rs.270.40 per month from July, 2013 till December, 2022 which comes to Rs.30825.60. The petitioners are directed to pay the said amount to the respondent No.1/employee before **31.12.2025**.

(ROHIT W. JOSHI, J.)

Tanmay..