
(2013) 11 BOM CK 0024
In the Bombay High Court
Case No : Writ Petition No. 2107 of 2012

Bhagubai Walmik Khandagale	Vs	APPELLANT
Social Forestry Department		RESPONDENT

Date of Decision : 26-11-2013

Acts Referred:

Citation : (2014) 2 ALLMR 138

Hon'ble Judges : Ravindra V. Ghuge, J

Bench : Single Bench

Advocate : P.V. Barde, for the Appellant; K.M. Suryawanshi AGP, for the Respondent

Judgement

Ravindra V. Ghuge, J.—Heard learned Advocates for the respective parties in both the petitions. Rule. By consent, Rule is made returnable forthwith and the petitions are taken up for final disposal.

2. Shri Barde, learned Advocate for petitioners in both the petitions, while opening his submissions has stated that he would prefer to curtail the same to a very short point. He states that the date of the impugned Awards is 17.7.2010 passed in Reference cases IDA Nos. 13/2006 and 17/2006 respectively. The petitioners stood superannuated prior to the date of the awards. The References have been allowed partly to the extent of the petitioners having been granted reinstatement with notional continuity of services from the date of their termination but without back wages.

3. Shri Barde, learned Advocate further contends that the relief awarded in the peculiar facts and circumstances of the case, wherein the petitioners stood retired prior to it's deliverance has virtually rendered the awards a paper arrangement and the petitioners have not gained benefit of any nature from the said awards. He, therefore, prays that if compensation was to be quantified in lieu of reinstatement and notional continuity of service, the petitioners who are tilting towards old age, would stand benefited. He, therefore, prays that

References be remanded back to I-Labour Court, Ahmednagar for arriving at such quantification.

4. Shri Suryawanshi, learned AGP on the one hand has strongly supported the awards to the extent of denial of back wages and on the other hand, clarifies that the respondent has not challenged the said awards to the extent of order of reinstatement with notional continuity of service from the date of termination. In fairness, he, therefore, states that if the law to arrive at a compensation in lieu of reinstatement is in place, the matter could very well be remanded to the I-Labour Court, Ahmednagar only for this limited purpose.

5. In the case of O.P. Bhandari Vs. Indian Tourism Development Corpn. Ltd. and Others, and J.W. Mane Vs. Wockhardt [2010 LLR 955] the law and principles to be followed for arriving at a quantum of compensation in lieu of reinstatement have already been laid down. The Labour Court, which is the competent authority under the Industrial Disputes Act, 1947 in the Reference proceeding is therefore, vested with jurisdiction to arrive at such a quantification I, therefore, find no hesitation in accepting the joint plea of the respective parties.

6. Shri Barde, learned Advocate for the petitioners submits that oral and documentary evidence only to the extent of proving the last drawn wages payable to the petitioners will have to be placed before the I-Labour Court, Ahmednagar, so as to enable it to arrive at the amount of compensation. He, therefore, seeks liberty to adduce oral and documentary evidence to that extent.

7. In the result, both the petitions are partly allowed and disposed of.

8. The impugned awards dated 17.7.2010 are quashed and set aside by consent and Reference IDA No. 13 of 2006 and Reference IDA No. 17 of 2006 are remitted to the I-Labour Court, Ahmednagar only to the extent of both the parties making an effort to assist the Court in arriving at the amount of compensation in lieu of reinstatement with notional continuity of service from their dates of termination till their dates of superannuation. However, it is clarified that the remand of this matter will not amount to the contentions of the petitioners having been accepted by this Court. The I-Labour Court, Ahmednagar shall decide only this issue, on its own merits, without being influenced by the observations made in this order as expeditiously as possible and preferably within a period of six months from today. Both the parties are at liberty to lead oral and documentary evidence limited to that extent. The parties shall cooperate in assisting the Court for an expeditious disposal of the references, within the time frame. Rule is accordingly made partly absolute in both the petitions with no order as to costs.