

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 5978 OF 2019
(Arising out of SLP(C) No(s).11267 of 2016)

DHARAMRAJ NIVRUTTI KASTURE

Appellant(s)

VERSUS

CHIEF EXECUTIVE OFFICER AND ANR.

Respondent(s)

J U D G M E N T

BANUMATHI, J.:

Leave granted.

(2) This appeal arises out of judgment and order of the High Court of Judicature at Bombay in Writ Petition No.3353 of 2002 dated 07.01.2016 in and by which the High Court has set aside the order of the Labour Court and the Industrial Tribunal of reinstatement of the appellant. However, the High Court has directed the respondent-Zilla Parishad to pay compensation of Rs.50,000/- in lieu of reinstatement of the appellant and in full quit of all claims.

(3) The appellant was appointed as peon in Zilla Parishad on 23.03.1983 on daily-wage basis for a period of two months and his services were discontinued from 31.12.1987 by Order dated 07.01.1988. The appellant filed a complaint under Sections 28 read with clause 1(a), (b), (d), (e) and (f) of Schedule IV of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971. The appellant has alleged

that he has completed 240 days in each year and his services were terminated by the respondent-Zilla Parishad in violation of Section 25-F of the Industrial Disputes Act, 1947 and thus the appellant has prayed for reinstatement with back wages in the service and with continuity of service.

(4) The Labour Court in its judgment dated 23.10.2000 set aside the order of termination and directed reinstatement of the appellant with continuity of service. The Labour Court, however, refused the back wages to the appellant on the ground that by an interim order dated 09.02.1988, the respondent-Zilla Parishad was directed to pay 75% of the last drawn wages to the appellant for about 12 years without work and, therefore, the Labour Court held that the appellant would not be entitled to the back wages. The Revision Application (ULP) NO.56 of 2001 filed by the respondent-Zilla Parishad before the Industrial Tribunal came to be dismissed by order dated 22.01.2002. Being aggrieved the respondent-Zilla Parishad preferred writ petition before the High Court. The High Court vide impugned order allowed the writ petition and set aside the order of award passed by the Labour Court as affirmed by the Industrial Tribunal by holding that there cannot be any direction for reinstatement on permanent basis when the entry to the service itself was in violation of the rules and without any public participation. The High Court has also held that the Labour Court has not recorded any findings as to the unfair labour practice nor any finding that the appellant herein was kept temporary for years with an object of depriving him permanency.

Pointing out that the appellant has worked till dated 31.12.1987 and that there has been stay to his reinstatement since 2002 and that the appellant was out of employment for more than thirty years. The High Court has further held that the appellant would not be entitled to reinstatement. However, the High Court has awarded the compensation of Rs.50,000/- in lieu of reinstatement and in full quit of all claims.

(5) We have heard Mr. Sagar N. Pahune Patil, learned counsel appearing for the appellant. We have also heard Mr. Sanjay Kharde, learned counsel appearing for the respondent-Zilla Parishad and also perused the impugned judgment and the materials on record.

(6) As pointed out by Mr. Sanjay Kharde, learned counsel appearing for the respondent-Zilla Parishad, that the appellant was out of service for more than 32 years, it is also seen from the order of the Labour Court dated 23.10.2000 that the appellant has been paid 75% of the last drawn wages for about 12 years without work.

(7) Considering the facts and circumstances of the case and the fact that the appellant has been out of employment for more than three decades, we are not inclined to interfere with the order of the High Court declining reinstatement. However, the compensation of Rs.50,000/- awarded to the appellant is enhanced to Rs.1,50,000/- (Rupees One Lakh Fifty Thousand). At this stage learned counsel for the respondent-Zilla Parishad has submitted that an amount of Rs.50,000/- has already been

paid to the appellant in compliance of the impugned order. In view of above, only the balance amount of Rs.1,00,000/- (Rupees One Lakh) shall be paid to the appellant by the respondent-Zilla Parishad within a period of eight weeks from today.

(8) In the result, the impugned order is modified to the extent indicated above and the appeal is partly allowed. There shall be no order as to costs.

.....J.
(R. BANUMATHI)

.....J.
(A.S. BOPANNA)

NEW DELHI,
JULY 31, 2019.