

THE MANAGER (FACTORY) MAHARASHTRA STATE
COOPERATIVE MARKETING FEDERATION LTD. & ANR. A

v.

SURESH S/O DADARAO GADGE

(Civil Appeal No. 27 of 2015) B

DECEMBER 17, 2014

[ANIL R. DAVE AND R. BANUMATHI, JJ.]

Labour Law – Termination – Of respondent-peon – Respondent not given any retrenchment compensation – Subsequent re-instatement of respondent by Labour Court but without back-wages – Challenge to – Held: Appointment of respondent was irregular – He had hardly worked for about a year and a half on daily wage basis – Unit of appellant, where respondent was employed, had been closed down – Further, respondent did not lead any evidence or file any affidavit before the Labour Court stating that he was unemployed during the period of litigation – In the circumstances, respondent ought not to have been reinstated in service – However, two lakh rupees awarded to respondent by way of compensation – In addition, Rs.25,000/- deposited by appellant with the Supreme Court Registry permitted to be withdrawn by the respondent. C D E

CIVILAPPELLATE JURISDICTION : Civil Appeal No. 27 of 2015. F

From the Judgment and Order dated 27-03-2014 of the High Court of Judicature at Bombay in Writ Petition No. 8809 of 2012.

Vinay Navare, Satyajeet Kumar, Keshav Ranjan, Ms. Gwen K.B. (For Ms. Abha R. Sharma), Advs. for the Appellants. G

Dilip Annasaheb Taur, Amol V. Deshmukh, Advs. for the Respondents.

A The Judgment of the Court was delivered by
ANIL R. DAVE, J. 1. Leave granted.

B 2. The learned counsel appearing for both the sides have requested for quick disposal of the appeal and we are also of the view that earlier disposal of the appeal would be in the interest of justice as well as the parties to the litigation. In the circumstances, the appeal is heard and decided today.

C 3. The respondent had been appointed as a peon on daily wage basis on 1st July, 1994 and was discontinued from service from 4th March, 1996, without making any payment of retrenchment compensation.

4. It is an admitted fact that the respondent had not been engaged to work by following the normal practice and thus he was engaged by way of "back door entry".

D 5. The respondent had challenged his termination by approaching the Labour Court, Nanded (Maharashtra). The Labour Court, by its Award dated 29th December, 2010, in Comp.ULP/No.2/1996, decided in favour of the respondent, whereby it was directed that he should be reinstated in service with continuity of service from 4th March, 1996, but without back wages.

E 6. The said Award has been affirmed by the learned Single Judge of the High Court by its judgment and order dated 27th March, 2014, passed in Writ Petition No.8809 of 2012.

F 7. Being aggrieved by the judgment delivered by the High Court affirming the Award passed by the Labour Court, the appellant-employer has approached this Court.

G 8. After hearing learned counsel for the appellant, we are of the view that the respondent ought not to have been reinstated in service as he was not in a regular service. In fact, no other person junior to the respondent had been continued at Parbhani unit of the appellant, which had been closed down. In fact, there was no work at Parbhani unit, as the said unit had been closed down, the respondent, who was working on daily
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wage basis, was not continued on daily wage basis, but it is an admitted fact that he was not given retrenchment compensation. A

9. In view of the aforesaid circumstances, in our opinion, it would be just and appropriate not to reinstate the respondent, especially, in view of the fact that (i) the respondent had hardly worked for a period of about a year and a half on daily wage basis; (ii) his appointment was irregular and; (iii) Parbhani unit of the appellant, where the respondent was employed, has now been closed down. B

10. Looking at the peculiar facts of the case, it would be just and proper to award a sum of Rs.2 lakhs (Rupees two lakhs only) by way of compensation to the respondent, It is pertinent to note that he did not lead any evidence or file any affidavit before the Labour Court stating that he was unemployed during the period of litigation. The aforesaid amount of Rs.2 lakhs by way of compensation shall be paid to the respondent by the appellant within four weeks from today. C

11. In addition to Rs.2 lakhs, the amount of cost deposited by the appellant with the Registry of this Court, i.e., Rs.25,000/- (Rupees twenty five thousand only), is permitted to be withdrawn by the respondent. D

12. The impugned judgment passed by the High Court is set aside and the appeal is allowed to the above extent with no order as to costs. E

Bibhuti Bhushan Bose

Appeal partly allowed. F