

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3881 OF 2001

Chandrakant S/o. Ganpatrao Vedpathak, .. Petitioner
Age-59 years, Occu- Retired Servant,
R/o. Sarojani Nayadu Road, Teli Galli,
Parbhani Dist. Parbhani
(Expired hence Through L.Rs.)

1-a) Smt Pushpabai wd/o. Chandrakant
Vedpathak, Age. 50 years,

2-b) Sow. Anita w/o. Madhukar Pandit,
Age. 30 years,

3-c) Ganesh s/o. Chandrakant Vedpathak,
Age-28 years,

4-d) Avinash s/o. Chandrakant Vedpathak,
Age-26 years,

All R/o. Teli Galli, Sarojani Nayadu
Road, Parbhani, Dist. Parbhani

Versus

1. The State of Maharashtra .. Respondents
2. Marathwada Agriculture University
Parbhani, Dist. Parbhani
Through its Registrar.
3. The Head of the University Printing
Department, Marathwada Agriculture
University, Parbhani, Dist.Parbhani.

Mr.A.S.Golegaonkar, Advocate for the petitioner.
Mrs.S.A.Dhumal, AGP for the respondent/State.
Mr.A.V.Sakolkar h/f Mr.V.G.Sakolkar, Advocate for
respondent No.2.

**CORAM : A.V. NIRGUDE &
V.K. JADHAV, JJ.**
DATED : 08.09.2015

ORAL JUDGMENT [PER : A.V. NIRGUDE,J.] :-

1. Heard. On perusal of the petition and upon hearing submissions of learned Counsel for the petitioner, we realized that this petition is almost the petition for execution of order passed by Industrial Court dated 26.06.1990.

2. The facts leading to this litigation can be narrated in short as under :-

3. The original petitioner – Chandrakant Pathak was one of the daily wage employees of the respondent No.2-University since prior to 1976. All these daily wagers made complaint to the Industrial Court alleging that they are kept on employment as daily wager for number of years and upon hearing the parties on 26.06.1990 following order was passed by the Industrial Court.

"i) For all the complaints taken together for this common judgment and it is hereby declared that in continuing the complaints as temporaries on daily wages for years together the management of the Marathwada Agriculture University, Parbhani, has indulged in Unfair Labour Practice under Item No. 6 in Sch. IV of the New PULP Act.

ii) In all the complaints taken together for this common judgment, by way of affirmative action the Management of the Marathwada Agriculture University, Parbhani, is directed that all the complainants should be granted the benefits and privileges admissible to regular and permanent employees in the employ of the University in the matter of payment of wages, payment of dearness allowances and have admissibility etc. w.e.f. The respective dates of complaint.

iii) It is further directed that the complaints shall start receiving the pensionary benefits because of this order regularly w.e.f. August, 1990 and so far the arrears are concerned those should be calculated/ accounted and paid to the respective employees within the period of six months from the date of this order.

iv) In the circumstances there shall no order as to costs.

4. This order was subjected to challenge up to High Court, but in vain. The petitioner after 1990 was given back-wages and was paid salary as per the order. In the year 2000, the petitioner reached the age of

superannuation. But, thereafter he was not treated as regular employee and was not given pensionary benefits. Paragraph No.3 of the order quoted above clearly mentioned that the employer was under obligation to give all pensionary benefits to the petitioner and other similarly placed employees. The University sent a letter to the Government of Maharashtra seeking further guidance. The University mentioned in their letter that in view of the order quoted above the petitioner ought to have been regularized. After regularization of the petitioner, he would get all the benefits including pensionary benefits. The Government of Maharashtra sent a reply to this letter which is annexed to the petition at Exh. R-1. The relevant portion of the letter would read upon translation in English as under:-

"As per the Court order all benefits are required to be given to the litigating employees. The Government assumed that the order directed employer to give only benefits applicable to the litigating employees. The order did not contemplate regularization of the litigating employees."

5. In other words the Government did not want to accept its liability of regularizing the petitioner and giving him pensionary benefits. The interpretation of the order which is quoted above is thus the subject matter of

this petition. Upon reading the order, it is clear that the Court clearly directed the employer to give all benefits of regular employee to the litigating employees who were till then daily wagers. This means, though the order does not clearly mention but the order clearly indicated that in order to give all benefits including pensionary benefits to the litigating employees they ought to have been regularized. In fact, in para No. 22 of the judgment, it is mentioned that all the litigating employees were entitled to be made permanent with effect from the date of application. The interpretation of this order is not difficult. The Government as well as the University ought to have made litigating employees permanent from the date of their respective application which is in 1988. The interpretation made by the Government of the order quoted above is thus erroneous and would almost amount to contempt of Court. Instead of taking punitive action against the Government at this belated stage, we thought it proper to allow the petition in term of prayer clauses (B) & (C) which read thus:-

“(B) To direct the respondent No.1 University to fix the pension and same be paid regularly being permanent employee by issuing appropriate writ, order or directives as the case may be.

(C) To declare that as per decision of the Industrial Court in ULP Complaint No. 159/88 to

169/1988 petitioner is permanent employee and direct the respondent No.2 University to pay all the benefits of permanent employee whereas pensionary benefits includes the entitlement of benefits to permanent employee and same be directed to pay regularly to the petitioner from the date of superannuation by issuing appropriate writ, order or directives as the case may be."

6. Thus, the writ petition is allowed in terms of prayer clause (B) & (C). Rule made absolute accordingly, with no order as to costs.

[V.K. JADHAV, J.]

[A.V. NIRGUDE, J.]