

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2569 OF 2014

Bhausahab Maruti Kawade,
Age 34 years, Occ. Nil,
At post Jeur Kumbhari,
Tq. Kopargaon, Dist. Ahmednagar.

..Petitioner

Versus

1. The State of Maharashtra
Through its Secretary,
General Administration Deptt.,
Mantralaya, Mumbai.

2. The Collector, Ahmednagar.

3. The Managing Director,
Maharashtra State Farming
Corporation Limited,
270, Sheti Mahamandal Bhavan,
Senpati Bapat Marg, Pune.

4. The Estate Manager,
Maharashtra State Farming
Corporation Limited,
Laxmiwadimala, Post.Laxmiwadimala
Taluka Rahata, Dist. Ahmednagar.

..Respondents

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Advocate for Petitioner : Shri Gaware Niteen V.
AGP for Respondents 1 & 2 : Shri Borade P.G.
Advocate for Respondents 3 & 4 : Shri Dhorde V.R.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: December 01, 2015

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ORAL JUDGMENT :-

1. Heard.

2. Rule.

3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. The petitioner has assailed the judgment and order dated 11.9.2013, delivered by the Industrial Court, Ahmednagar, by which Complaint (ULP) No.69 of 2010 has been dismissed.

5. Grievance of the petitioner is that since his father unfortunately passed away on 30.12.1998, when the petitioner was still a minor, he was entitled to compassionate appointment in place of his father after attaining the age of 18 years in the light of an agreement dated 22.9.2003, between the respondent / Corporation and the Kopargaon Taluka Sakhar Kamgar Sabha of which the father of the petitioner was a Member.

6. Shri Gaware, therefore, vehemently submits that the Industrial Court, having overlooked the agreement dated 22.9.2003, renders the impugned judgment perverse and erroneous.

7. Shri Dhorde, learned Advocate appearing on behalf of respondent Nos.3 and 4 Corporation, submits that there is no dispute that the said agreement was produced on record and was signed between the Corporation and a recognized Union. Nevertheless, the applicability of Clause No.3 providing for employment on compassionate grounds was subject to the sanction of the State Government, since the Corporation was

a limb of the Government.

8. By communication dated 24.1.2011, the Government decided to close down the Corporation permanently and as such, the Clause (3) providing for compassionate appointment was not accorded permission. This aspect has been considered by the Industrial Court in paragraph No.10 of the impugned judgment and hence the impugned judgment can neither be termed as perverse nor erroneous.

9. I have considered the submissions of the learned Advocates and have gone through the agreement dated 22.9.2003 with their assistance.

10. It is undisputed that Clause No.3 providing for compassionate appointment was subject to the sanction of the State Government. The agreement was signed by the recognized Union. Once it was agreed that the compassionate appointment would be permitted only if the Government accords its sanction, one need not read the agreement any further. Binding effect of an agreement signed by the recognized Union is trite law.

11. The Industrial Court has considered the oral and documentary evidence and has come to a conclusion that the Government of Maharashtra did not accord its sanction to the clause providing for compassionate appointment. In effect, therefore, the relevant Clause pertaining to compassionate appointment cannot be said to be in force.

12. In these circumstances, it cannot be averred that the settlement has been violated, thereby bringing the case of the petitioner under Item 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act ") In this fact situation, the impugned judgment can neither be termed as perverse nor erroneous.

13. In the alternative, the petitioner makes a submission that the representation dated 25.10.2013 made by the petitioner to the respondent No.2 - Collector, Ahmednagar is yet to be decided. It is a representation praying for entering the name of the petitioner in the waiting list of eligible persons, who could be appointed on compassionate grounds, if possible. Shri Gaware, therefore, submits that respondent No.2 may at least take a decision on the said representation.

14. The learned AGP appearing on behalf of respondent Nos.1 and 2 submits that if the said representation dated 25.10.2013 is still pending, respondent No.2 would taken an appropriate decision and communicate the same to the petitioner. If already decided and if such decision is still not communicated, the same could be done.

15. In the light of the above, no interference is called for in the impugned judgment of the Industrial Court dated 11.9.2013. Nevertheless, considering the statement of the learned AGP, respondent No.2 may decide the representation of the petitioner, dated 25.10.2013 and communicate its decision to the petitioner within a period of 12 weeks from today.

16. The petition is, therefore, dismissed to the extent of the challenge to the impugned judgment. Rule is discharged.

17. Needless to state, this Court has not directed respondent No.2 to accept the representation of the petitioner and the observations made above are only to enable respondent No.2 to decide the representation in accordance with law and on its own merits.

(RAVINDRA V. GHUGE, J.)

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