

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2796 OF 2015

The Maharashtra State Road
Transport Corporation,
Through its Divisional Controller,
Dhule.

..Petitioner

Versus

Rajendra Shankarrao Korke,
Age major, Occ. Service,
R/o Korke Nagar, Krushnakunj,
Malegoan Road, Dhule.

..Respondent

AND

WRIT PETITION NO.3039 OF 2015

The Maharashtra State Road
Transport Corporation,
Through its Divisional Controller,
Dhule.

..Petitioner

Versus

Divisional Secretary,
Maharashtra ST Kamgar Sanghtana,
Dhule Division, Dhule.

..Respondent

...

Advocate for Petitioners : Shri D.S.Bagul
Advocate for Respondents : Shri N.B.Suryawanshi
and Shri Shaikh Samir Ahmed Saifuddin

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CORAM : RAVINDRA V. GHUGE, J.

Dated: June 25, 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 MSRTC is aggrieved by the judgment and order dated 25.7.2014, delivered by the Industrial Court in Complaint (ULP) Nos. 73 of 2011 and 61 of 2013.

5. I have heard the learned Advocates for the respective sides at length and with their assistance, I have gone through the judgment of the Apex Court, upholding the judgment of the Full Bench of this Court in the matter of MSRTC Vs. Premlal [(2007) 9 SCC 141], the judgment of this Court in the matter of MSRTC Vs. Dwarkadas Nathmal Bharuka [2007 (4) All M.R. 692], and the judgment delivered by this Court in a group of petitions - Writ Petition No.4985 of 2011, MSRTC Vs. Chandrakant Ganpatrao Kadam and others, dated 12.9.2001.

6. The grievance of the petitioner is with regard to Clause 4 of the operative part of the impugned judgment, which reads as under:-

“ Respondent is further directed to absorb the workers named in the Chart mentioned in the Complaints on Regular Time Scale (R.T.S.) on completion of 180 days service as shown in the Chart in the complaints with all consequential benefits within the period of three months from the date of this order.”

7. It is submitted by Shri Bagul that the following observations of the

Apex Court in paragraph No.9, which have been followed by this Court in the two judgments referred to above, ought to be incorporated in Clause (4) of the impugned judgment:-

"9. The petitioners have produced a chart in paragraph 3 of the petition, which shows date of completion of 180 days. They have also disclosed the date on which permanency is conferred upon them. In view of clause 49 of 1956 settlement, petitioners are entitled to benefit of time scale after they complete 180 days of continuous service. Said benefit is, therefore, necessary and should be extended to them for the period between the two dates i.e. the date on which they completed 180 days and the date on which permanency is conferred upon them."

8. In the present case, the respondents workmen are in service after 31.8.1978. In these circumstances, notwithstanding cancellation of Clause 49 of the 1956 Settlement, the workmen herein would be entitled to all benefits admissible to regular employees working in the Corporation on time scale of pay, provided, they satisfy the eligibility criteria of having worked for an aggregate service of 180 days and subject to their satisfying all the conditions prescribed for their entitlement in terms of the above Resolution No. 8856 read with Clause 19 of the 1985 Settlement.

9. The Apex Court in the said Premlal's judgment (supra), have not gone into the issue of absorption and the validity of Resolution No.8856, dated 31.8.1978. The said two said issues are left open to be decided by a different forum.

10. This Court, in the Dwarkadas's case (supra), has observed in paragraph No.7 as follows:-

“7. In this view of the matter, the Maharashtra State Road Transport Corporation is directed to provide all the benefits admissible to regular employees working in the Corporation on time scale of pay provided they satisfy the eligibility criterion of having worked for aggregate service of 180 days and subject to their satisfying all the conditions prescribed for their entitlement in terms of resolution No.8856 read with Clause 19 of 1985 Settlement.”

11. This Court, once again, in the case of Chandrakant (supra), has considered the Full Bench judgment of this Court in the case of Premalal (supra), as well as the observations of the Apex Court in the case of Premalal (supra) and recorded in paragraph No.7 of its judgment, delivered in 25 petitions, dated 12.9.2011 as under:-

“7. There is no reason for me to hold a different view than held by the learned Single Judge of this Court in W.P. No.888/2004 referred supra. The present Writ Petitions are as such disposed of on the same terms as laid down in para 7 of the judgment delivered on 4.5.2007 by the learned Single Judge of this Court in W.P.No. 888/2004 with connected Writ Petitions.”

12. As such, the benefits as were made available to the workmen working with the petitioner after 31.8.1978, were also given to the workmen as per paragraph No.7 of the Dwarkadas judgment (supra), This Court, therefore,

concluded that there is no reason to hold a different view.

13. The respondent workmen herein, their complaint before the Industrial Court had claimed benefits as per Clause 49 of the 1956 Settlement. The Apex Court, in paragraph No.9 (reproduced portion) has concluded that, *“Notwithstanding cancellation of Clause 49 of 1956 Settlement, the workmen herein would be entitled to all benefits admissible to regular employees working in the Corporation on time scale of pay, provided they satisfy the eligibility criteria of having worked for aggregate service of 180 days and subject to their satisfying all the conditions prescribed for their entitlement in terms of the above Resolution No. 8856 (which is dated 31.8.1978) read with Clause 19 of the 1985 Settlement.”* This has accordingly been ordered by this Court in the cases of Dwarkadas (supra) and Chandrakant (supra).

14. In this backdrop, Clause 4 of the operative part of the impugned judgment could be modified so as to subject it to the directions of the Apex Court in the case of Prem Lal (supra) and which has been followed by this Court in the case of Dwarkadas and Chandrakant's cases (supra).

15. As such, the said Clause 4 of the operative part of the impugned judgment stands modified as under:-

“4. Respondent is directed to grant all benefits to the workers named in the chart mentioned in the Complaints on regular time

scale and all benefits admissible to regular employees working in the Corporation on time scale of pay, provided they satisfy the eligibility criteria of having worked for aggregate service of 180 days and subject to their satisfying all the conditions prescribed for their entitlement in terms of the Resolution No.8856, dated 31.8.1978, read with Clause 19 of the 1985 Settlement, expeditiously.”

16. Needless to state, the Clauses at Sr. Nos. 2 and 3 of the operative part of the impugned judgment shall be subject to the effect of Clause 4, modified as above.

17. With the above directions, the petitions are partly allowed by modifying Clause 4, as above. Rule is made partly absolute, in the above terms.

(RAVINDRA V. GHUGE, J.)

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