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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.1758/2011

- 1] The Administrator,
Nanded Dist. Cooperative
Agri. Rural Multipurpose
Development Bank Ltd., Nanded.
- 2] The Manager,
Nanded Dist.Co-operative Agri.Rural
Multipurpose Development Bank Ltd.,
Nanded.

...Petitioners..

Versus

Gangadhar s/o Manika Salve,
age 42 yrs., occu.service,
r/o Pimpalgaon (Yevala)
Tq.Loha Dist.Nanded.

...Respondent...

.....

Shri S.V. Munde, Advocate for petitioners.

Shri M.V. Ghatge, Advocate for respondent.

.....

CORAM: RAVINDRA V. GHUGE, J.

DATE: 17.12.2015

ORAL JUDGMENT :

1] This Court by order dated 11.4.2011 admitted this petition and passed the following order:-

"1. Heard Adv. Mr. S.G. Sangle, for the petitioners, and Adv. Mr. S.P. Katneshwarkar, for

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the respondent / caveator.

2. Rule.

3. Adv. Mr. S.P. Katneshwarkar accepts notice upon Rule on behalf of the respondent / caveator.

4. As the vacancy was never notified and respondent was given work initially on daily wages and thereafter on contract basis, the direction given by the Industrial Court, to make him permanent on the post of Driver, is hereby stayed. However, that does not enable the petitioners to terminate services of the respondent. His employment as before shall be continued until further orders of this court in the matter.

5. Prima facie it appears that the petitioner / Bank has vehicles and, therefore, needed Drivers. Two posts of Drivers are stated to be still vacant. It is not understood, how the vehicles can be used by Bank, if State Government is not permitting Bank to recruit Drivers. Hence, liberty to petitioners to move appropriate proceedings for getting sanction for filling in the posts of Drivers.

6. The petitioners to take suitable steps in this respect as early as possible and in any case within period of eight weeks from today."

2] A communication dated 1.6.2011 was issued by the Commissioner, Cooperation and Registrar, Cooperative

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Societies, State of Maharashtra, to the Administrator of the petitioner – bank, stating therein that the order of this Court dated 11.4.2011 can be implemented by appointing two Drivers on the two vacant posts of Drivers at the level of the bank. The said communication is taken on record and marked as Exhibit "X" for identification.

3] I have heard the learned Advocates for the petitioners and the sole respondent at length. With their assistance, I have gone through the grounds for challenge put forth by the petitioners and the impugned judgment.

4] It is undisputed that the respondent has been working as a Driver from 4.10.1997. He filed Complaint (ULP) No.146/2009 on 29.7.2009, which is after being in continuous service for 12 years. By the impugned judgment dated 15.12.2010, the complaint has been allowed and the petitioners are directed to grant permanency to the respondent on the post of Driver from the date of filing of the complaint with all monetary benefits and privileges.

5] Shri Munde has put forth a host of factors for

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assailing the impugned judgment. He, however, submits on the basis of the record that the respondent has been working as a Driver for the past 18 years. I also find from Exhibit X and the observations of this Court in paragraph nos.4 & 5 of the order dated 11.4.2011 that two posts of Drivers are vacant with the petitioner-bank.

6] Two proposals dated 27.4.2011 and 3.8.2011 forwarded by the petitioner – bank to the Commissioner, Cooperation for seeking sanction to the regularization of the respondent, are placed on record. Same are marked as Exhibits "Y" and "Z" for identification.

7] Considering the fact situation, the observations of this Court in its order dated 11.4.2011, Exhibits X, Y and Z referred to above, and the reasons assigned by the Industrial Court based on oral and documentary evidence on record, I do not find that the impugned judgment could be termed as perverse or erroneous.

8] This petition being devoid of merit is, therefore, dismissed.

9] During the pendency of this petition, the respondent were made to work on a consolidated wages. The petitioners are under an obligation to implement the

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judgment of the Industrial Court and the directions of this Court in its order dated 11.4.2011, as expeditiously as possible and preferably within a period of 12 weeks from today.

10] Rule is discharged.

11] Pending civil applications, if any, do not survive and hence are disposed of. There shall be no order as to costs.

(RAVINDRA V. GHUGE, J.)