

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 3672 OF 2014
IN WP/2742/2002

SADASHIV CHINDHA SONAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Shri Patil Shrikant S.
AGP for Respondents 1 & 2 : Shri Bhogle U.H.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 23, 2015

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PER COURT :-

1. By this application, the applicant / original respondent, who is 59 years' old and due for superannuation in May 2015, has questioned the order dated 8.11.2013, passed by the Deputy Director, GSDA.

2. The applicant had filed Complaint (ULP) No. 921 of 1999 (Old No. 172 of 1994) before the Industrial Court, Jalgaon, claiming permanency and benefits incidental and consequential thereto. By judgment and order dated 4.4.2002, the complaint was partly allowed and the employer was directed to grant monetary benefits of a permanent employee to the applicant from April 1994. The said judgment has been challenged by the petitioner / employer in Writ Petition No. 2742 of 2002. By order dated 16.12.2002, this Court expedited Rule and refused interim relief to the employer.

3. On 5.6.2007, the employer considered the case of the applicant and

granted him certificate of permanency on the condition that the same would be subject to the result of the petition. However, by order dated 8.11.2013, the certificate of permanency, dated 5.6.2007, has been set aside since Writ Petition No.2742 of 2002 is still not decided by this Court.

4. The applicant submits that when interim relief has been specifically declined to the petitioner and the impugned judgment of the Industrial Court has not been stayed, his case for permanency was considered by the employer on its own merits. Without affording an opportunity of hearing, the said permanency has been withdrawn by the impugned order. The applicant / employee would be superannuating in May, 2015.

5. The petitioner / respondent in this application has filed an affidavit-in-reply through the Senior Geologist on 25.9.2014. Contention is that the continuation of the applicant / employee is subject to the decision in the Writ Petition. His appointment is not in conformity with the Recruitment Rules. Writ Petition is pending for final hearing and hence, certificate of permanency given by oversight has been cancelled.

6. The petitioner / department has questioned the appointment of the applicant in its reply to the application. The said contentions as regards the recruitment of the petitioner can be looked into while deciding the Writ Petition, since all those contentions have been set out in the Writ Petition itself. However, there is no explanation forthcoming as to why has the permanency certificate been withdrawn after a passage of six years and

that too without even hearing the applicant / employee.

7. In the light of the above, this Civil Application is allowed. The impugned order dated 8.11.2013 shall stand stayed till the disposal of the Writ Petition. Since the Writ Petition is instituted in 2002, the same be listed for final hearing on 5.3.2015.

8. The request for time-bound promotion is left open to be considered by the petitioner / employer on its own merits. Pendency of the Writ Petition shall not be an impediment for the petitioner / employer who shall decide the said issue on its own merits and prior to the superannuation of the applicant / workman.

(RAVINDRA V. GHUGE, J.)

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