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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.3719 OF 2007

- 1 The Suptd. Engineer,
Ahmednagar Irrigation Circle,
Nagar-Aurangabad road,
Ahmednagar.
- 2 The Executive Engineer,
Ahmednagar Irrigation Divn.,
Nagar-Aurangabad Rd.,
Ahmednagar.
- 3 The Dy. Engineer,
Ahmednagar Irrigation Divn.,
Sub Divn., Shrirampur,
Tal. Shrirampur,
Dist. Ahmednagar. ...Petitioners...

Versus

- 1 Rangnath Gangaram Pisal,
R/o Wangi BK, Po-Kirdi,
Tq. Shrirampur,
Dist. Ahmednagar.
- 2 Namdeo Baburao Ughade,
R/o Wangi Bk, Po-Kirdi,
Tq. Shrirampur,
Dist. Ahmednagar. ...Respondents...

.....
Shri D. R. Korde, AGP for State/petitioners.
Shri P. L. Shahane, Advocate for respondents.
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CORAM: RAVINDRA V. GHUGE, J.

DATE: 17.12.2015

ORAL JUDGMENT :

1] This petition was admitted by this Court on 27.3.2008. This Court observed in paragraph nos.2 and 3 as under:-

"2. This Petition impugns the order dated 10.2.2000 passed by the Industrial Court, Ahmednagar, the Industrial Court has observed, in paragraph 4 of the impugned order that there was a considerable and unreasonable delay in filing the Complaint by the Respondent herein. However, in view of the fact that the Petitioners had not filed Written statement, the case of the Respondents that they have completed 240 days of service has gone unchallenged. The complaint filed by the Respondents was allowed and directions came to be issued that they should be taken on CRTE basis.

3. Though the Petition is filed in the year 2007 challenging an order passed in the year 2000, the fact that there was considerable delay in filing the Complaint (ULP) cannot be lost sight of, hence interim relief in terms of prayer clause (C). Hearing of the Petition is expedited.

Shri Shahane waives notice on behalf of

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the Respondents 1 and 2."

2] Interim relief, which was granted in terms of prayer clause (c) has led to the staying of the impugned judgment of the Industrial Court dated 10.2.2002 delivered in Complaint (ULP) No.28/1996.

3] I have heard the learned AGP and Shri P.L. Shahane, learned Advocate for the respondents for quite a some time. Both the respondents are said to be 70 years old today.

4] The petitioners have produced a chart to indicate the number of days worked by the respondents. It is conceded that the petitioners did not appear before the Industrial Court in Complaint (ULP) No.28/1996, by which the respondents had prayed for regularization in terms of the Kalelkar Settlement.

5] The petitioners submit that though they were served with Court notice, they did not appear in the case. The complaint proceeded *ex-parte*. In paragraph no.4 of the impugned judgment, the Industrial Court concluded that since the contentions of the respondents have gone unchallenged, the complainants are entitled to the benefits of the Kalelkar Settlement. It is in this

backdrop that the respondents were directed to be taken on converted regular temporary establishment (CRTE).

6] The petitioners, therefore, contend that merely because the petitioners did not participate in the proceedings, the respondents, who had worked in between 1986 to 1987 in the case of the respondent no.1 and in between 1985 to 1987 in the case of the respondent no.2, ought not to have been granted the relief, which was granted by the Industrial Court. He, therefore, prays for quashing and setting aside of the impugned judgment.

7] Shri P.L. Shahane has strenuously supported the impugned judgment. Submission is that the petitioners voluntarily did not participate in the proceedings before the Industrial Court. The impugned judgment of the Industrial Court dated 10.2.2000 has been challenged on 15.6.2007. This petition deserves to be dismissed only on the ground of delay. The respondents had discharged the burden cast upon them in proving that they had worked continuously with the petitioners from 1984 to 1988. This petition, therefore, deserves to be dismissed.

8] This Court by its order dated 27.3.2008 had considered the delay caused by both the sides in

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approaching the case. Paragraph nos.2 and 3 reproduced above indicate this fact and in the said backdrop, this Court granted interim relief in terms of prayer clause (C) to the petitioners. Consequentially, the respondents are out of employment from 1987/1988 for the past 27 years. Both of them are about 70 years old today.

9] In the peculiar facts of this case wherein the respondents are said to have put in intermittent service for a period of about 3 to 5 years and are out of employment for the last 27 years, I am of the view that the ratio laid down by the Apex Court in the following four cases would be squarely applicable to this case :-

"1] *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota v. Mohanlal* (2013 LLR 1009)

2] *Assistant Engineer, Rajasthan Development Corporation and another v. Gitam Singh* (2013) 5 SCC 136

3] *BSNL v. Man Singh* (2012) 1 SCC 558

4] *Jagbir Singh v. Haryana State Agriculture Marketing Board* (2009) 15 SCC 327.

9] I find it impractical to direct the petitioners to pay entire back wages to the respondents as is prayed for by Shri P.L. Shahane keeping in view that the

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respondents are seeking benefit of an *ex-parte* judgment, which has been stayed by this Court. Ends of justice would be met by compensating them in the light of the ratio of the Apex Court.

10] The Apex Court has roughly arrived at a compensation of Rs.30,000/- per year of service. Though the respondents claimed to have worked for about four years, the petitioners have produced date-wise employments of the respondent nos.1 and 2, which indicates that the respondent no.1 namely Rangnath Gangaram Pisal had worked in between 1986 and 1987, which is about two and half years. The respondent no.2 has worked in between 1985 to 1987, which is about three years.

11] As such, this petition is partly allowed. The impugned judgment dated 10.2.2000 is modified and the direction of taking the respondents on CRTE with benefits incidental thereto, is modified by directing the petitioners to pay compensation of Rs.75,000/- to the respondent no.1 - Rangnath Gangaram Pisal and Rs.90,000/- to the respondent no.2 - Namdeo Baburao Ughade, within a period of 12 weeks from today.

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12] In the event the said amounts are not paid within 12 weeks, these amounts shall carry interest at the rate of 6% p.a. from the date of this judgment till the actual payment.

13] Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)