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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6875 OF 2013

Baliram Vishnusa Billade,
Age about 49 years,
Occ. Service.
R/o. 1256, Navghar Galli,
A. P. T. Sangamner.
Dist. Ahmednagar.

...Petitioner...

Versus

Sangamner Municipal Council,
Sangamner
Through its Chief Officer,
A. P. T. Sangamner.
Dist. Ahmednagar.

...Respondent...

.....

Shri V. N. Upadhye, Advocate for petitioner.
Shri V. S. Bedre, Advocate for respondent.

.....

CORAM: RAVINDRA V. GHUGE, J.

DATE: 17.12.2015

ORAL JUDGMENT :

1] Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2] This Court has delivered a judgment in Writ Petition Nos.255/1996 and 1845/2004 on 17.12.2015. The said two petitions were in relation to the judgment of

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the Industrial Court dated 1.8.1995 delivered in Complaint (ULP) No.136/1991.

3] Shri Upadhye, learned counsel for the petitioner submits that there is no dispute that the petitioner herein was a member of the Sangamner Nagar Palika Kamgar Sanghatana, which had filed Complaint (ULP) No.136/1991 and which is a petitioner in Writ Petition No.1845/2004 decided today.

4] He submits that the petitioner was identically placed as like the other 90 workers, who have benefited from the said proceedings decided today by this Court. It was on account of disciplinary proceedings due to which the petitioner suffered a termination on 15.10.1992 against which he preferred Complaint (ULP) No.38/1993. Same was allowed by the Labour Court by judgment dated 30.4.2002. There was a subsequent termination of the petitioner dated 24.4.1993 against which he preferred Complaint (ULP) No.100/1993, which was rejected by the Labour Court by judgment dated 30.4.2002.

5] Shri Upadhye pointed out that the Labour Court by the judgment dated 30.4.2002 partly allowed Complaint (ULP) No.38/1993 and granted compensation in lieu of

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reinstatement and continuity of service. The Industrial Court by its judgment dated 27.4.2007 allowed his Revision (ULP) No.46/2002, set aside the judgment of the Labour Court and directed reinstatement of the petitioner with 50% back wages. This has been challenged by the employer in Writ Petition No.3575/2007, which has been admitted and interim relief is granted only to the extent of the direction to pay back wages. Consequent to the order passed by this Court, the petitioner has been reinstated on 22.8.2010.

6] Shri Upadhye, therefore, submits that the impugned judgment of the Industrial Court dated 11.9.2012 by which his Complaint (ULP) No.34/2010 was dismissed, is an erroneous judgment. The benefit of the regularization granted by the Industrial Court by judgment dated 1.8.1995 will have to be extended to the petitioner. He, therefore, submits that the petitioner could be deprived of the benefits of regularization for the period 15.10.1992 (date of dismissal) till 21.8.2008 (date of reinstatement), since that would rest on the result of Writ Petition No.3575/2007 wherein the employer – Council has challenged the judgment of the Industrial Court dated

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27.4.2007 granting reinstatement, continuity and 50% back wages to the petitioner.

7] Shri Bedre, learned Advocate for the respondent – Municipal Council, has strenuously defended the impugned judgment dated 11.9.2012. His contention is that on the date of the judgment in Complaint (ULP) No.136/1991 which is 1.8.1995, the petitioner was not in employment. He could not have claimed regularization and consequential benefits on account of his termination dated 15.10.1992. The respondent – Council has reinstated the petitioner only because this Court refused to stay the direction of reinstatement by way of interim relief. Direction to pay back wages was alone stayed by this Court. The Industrial Court has, therefore, rightly deprived the petitioner all the benefits of permanency.

8] I have considered the submissions of the learned Advocates, as have been recorded hereinabove.

9] Till 15.10.1992, the petitioner was in employment. He was party to Complaint (ULP) No.136/1991 before the Industrial Court, which has been allowed by judgment dated 1.8.1995. Said judgment has been upheld by this Court in the above referred judgment dated

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17.12.2015. As such, the petitioner will have to be held deemed permanent in the light of the said judgment of the Industrial Court till his termination on 15.10.1992. It is undisputed that he was out of employment on account of his termination from 15.10.1992 till 21.8.2008.

10] It is pointed out by both the learned Advocates that the petitioner has assailed his termination dated 15.10.1992 and 24.4.1993 in a single Revision (ULP) No.46/2002 as Complaint (ULP) Nos.38/1993 and 100/1993 in relation to these two terminations have been decided together by a common judgment of the Labour Court dated 30.4.2002. The said judgment as well as the judgment of the Industrial Court dated 30.4.2002 in Revision (ULP) No.46/2002 is subject matter of Writ Petition No.3575/2007.

11] It is informed that the petitioner is still in employment.

12] In these peculiar facts, as recorded above and considering the fact that the petitioner is in employment today, this petition can be partly allowed by setting aside the impugned judgment dated 11.9.2012 and by concluding that the petitioner will be entitled to the

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benefits of regularization as per judgment dated 1.8.1995 from 2.3.1991 till 14.10.1992. He will also be entitled for parity in wages from the date of his reinstatement.

13] Since serious charges were leveled upon the petitioner, for which he was dismissed and which is subjudice in Writ Petition No.3575/2007, the issue of arrears of pay-scale and benefits of regularization, shall be subject to the result of Writ Petition No.3575/2007. For the sake of clarity, since I have concluded that the petitioner was entitled for regularization in the light of the judgment of the Industrial Court dated 1.8.1995, he shall be paid the regular pay-scale from the date of this order at par with identically placed permanent employees till the date of his retirement or till the outcome of Writ Petition No.3575/2007.

14] With the above directions, the impugned judgment of the Industrial Court is modified. This petition is, therefore, partly allowed and Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)