

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7714 OF 2014

Ahmednagar Zilla Shet Majoor Union,
Trade Union Centre,
Tahsil Kecheri Road, Ward No.1,
Shrirampur, Taluka Shrirampur,
Dist Ahmednagar,
Through its Secretary

PETITIONER

VERSUS

Mahatma Phule Krishi Vidyapeeth,
At Post Vidyapeeth, Taluka Rahuri,
Dist.Ahmednagar,
Through its Registrar

RESPONDENT

Mr.P.V.Barde, Advocate for the petitioner.
Mr.P.L.Shahane, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 11/09/2015

ORAL JUDGMENT :

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

2. The petitioner/Union has espoused the cause of 14 employees in Complaint (ULP) No.9/2011. Certain benefits in favour of the said employees listed in Annexure "A" to the complaint were sought through the said case placing reliance upon the observations of this Court dated 04/08/2010 in WP No.514/2010 filed by the same Union.

3. By judgment and order dated 24/01/2014, the Industrial Court has dismissed the complaint on the ground that the reasons for condonation of delay are not sufficient and the complaint cannot be entertained on the ground of limitation.

4. The petitioner submits that the very same Union had approached this Court and by order dated 04/08/2010, directions were issued to the respondent/University to consider the cases of the employees, who could be said to be covered by the GR dated 08/08/1995.

5. It is further submitted that merely because the complaint was filed in 2011 that the Industrial Court, on the one hand concluded that the complaint was not maintainable and was beyond limitation and on the other hand went into the merits of the matter and concluded that the Union was not entitled for any benefits. Mr.Barde, therefore, submits that similar to the directions issued by this Court by order dated 04/08/2010, the respondent/University even in this case can be directed to consider the grievances of the said 14 employees.

6. Mr.Shahane, learned Advocate for the University has opposed

the petition. He submits that the GR dated 08/08/1995 was applicable only till 20/07/2001 by which promotional benefits were made available to Class-III and Class-IV employees, who have completed 12 years in employment. The effect of the GR was extinguished and the State introduced the "Assured Progress Scheme" w.e.f. 20/07/2001. Benefits under the said scheme are not available to the Class-III and Class-IV employees of the respondent / Agricultural University and other Universities throughout the State. He, therefore, submits that though this Union was a party to WP No.514/2010, these 14 employees never approached the Committee that was formed under the court orders. Hence, their cases could not be considered.

7. It would be apposite to reproduce the observations of this Court in its order dated 04/08/2010 delivered in WP No.514/2010, from paragraph Nos.2 to 5 as under :-

"2. The impugned order reveals that the complaint filed by the petitioners was partly allowed and certain directions were given by the Industrial Court, Ahmednagar vide the impugned order dated 18th November, 2009. The contention of the petitioners' is that the formation of committee for preparation of list of employees, who are eligible to get the benefit of time scale promotion is not warranted. The petitioners' further contention is

that those who had been retired or dead before filing of the complaint were also eligible if they come in the zone of consideration.

3. So far as formation of committee is concerned, there appears nothing perverse about direction. The committee is required to be formed in order to verify the record of each employees for the purpose of locating eligibility. It is necessary to examine whether the employees are eligible in accordance with the instructions issued under the Government Resolution. The performance of the employees, past record, the fact whether they have completed 12 years service etc are required to be verified in order to locate the eligibility. This being the requirement under Government Resolution, the directions in this behalf is quite legal and proper.

4. So far as the exclusion of retired or dead employees are concerned, the direction is partly modified in view of the fact that there is total exclusion without considering the availability of zone of consideration as on the date of issuance of the Government Resolution. The dead or retired employees can be excluded, if they do not fall within the zone of consideration on the date of issuance of Government Resolution. Thus the employees who have completed 12 years service as on the date of issuance of Government Resolution and are found eligible may be included by the scrutiny committee, if they are covered by the scheme. The cases of each such individual employees shall be considered on merits thereof.

5. *Mr.Shelke submits that the exercise shall be required to be completed within time framed because no such direction appears from the impugned order. The respondent shall form such committee within a period of three months and thereafter the committee shall complete the entire exercise within a period of six months and monetary benefit to be made available to them within one year.*

7. Mr.Barde, learned Advocate, therefore, submits that considering the period of applicability of the GR from 08/08/1995 till 20/07/2001, the petitioner/Union is willing to make a representation in relation to the 14 employees concerned, to the respondent/University which could decide the same based on the applicability and the effect of the said GR. Request put forth is that the respondent/University should not be influenced by the observations of the Industrial Court set out in the impugned judgment.

8. Mr.Shahane submits that the basic issue that would be considered by the respondent/University is whether the GR is applicable to these 14 persons and based on the same, the respondent/University will look into the representation put forth on behalf of the 14 employees mentioned in Annexure "A" to the complaint and the same will be decided strictly on its own merits.

9. In the light of the above, this petition is disposed of with the following observations :-

- (a) The petitioner shall make a representation in the case of each of the 14 employees separately, who are mentioned in Annexure "A" to the complaint and submit such 14 representations within a period of 3 (three) weeks from today to the respondent/Agricultural University.
- (b) The University shall consider the said representations on the basis of the applicability of the GR dated 08/08/1995 and the observations of this Court in its order dated 04/08/2010, reproduced above.
- (c) The said representations shall be decided on their merit and preferably within 12 weeks from the date of receipt of the same.
- (d) It is made clear that the impugned judgment of the Industrial Court shall not come in way of the rights of these employees and the respondent/University shall not be influenced by any observations made in this order.

10. Rule is, therefore, discharged.

(RAVINDRA V. GHUGE, J.)