

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7791 OF 2013

Manda Jagannath Shelke
Age 47 years, Occ. Service
R/o Shirdi, Taluka Rahata,
District Ahmednagar.

..Petitioner

Versus

Shri Sai Baba Sansthan Trust,
Shirdi, Taluka Rahata,
District Ahmednagar (Through
its Chief Executive Officer).

..Respondent

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Advocate for Petitioners : Shri Barde Parag Vijay
Advocate for Respondent : Shri Choukidar Sanjay R.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 21, 2015
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ORAL JUDGMENT :-

1. Heard.

2. Rule.

3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. The petitioner is aggrieved by the judgment and order dated 27.2.2012, delivered by the Industrial Court in Complaint (ULP) No. 89 of 2008, preferred by the petitioner which has been dismissed.

5. At the very outset it has been jointly pointed out that by a communication / order dated 30.5.2015, issued by the respondent- Trust, the petitioner has been re-transferred as an “Aaya” from the Saibaba Hospital to the Security Department as a “Lady Security Guard”. It is, therefore, stated that the grievance of the petitioner has been taken care of and the cause of action has been put to rest by the communication dated 30.5.2015.

6. Shri Barde, therefore, submits that the only issue that remains to be adjudicated upon in this petition is as regards the benefits being claimed by the petitioner under the “Assured Progress Scheme” (“ACP”) which is also known as “Time Bound Promotion”.

7. Shri Barde has strenuously submitted that the petitioner who joined the respondent on 29.6.1991 was entitled for the Time Bound Promotion under the “ACP” on completion of 12 years of service. Since she has completed 12 years of service, she was entitled for the said promotion in November 2005, considering her date of permanency 27.11.1993. However, she has been granted the said benefit from 1.3.2009, which is in opposition to the Government Notification, which provides for such a Scheme. He, therefore, submits that there is no conclusion drawn by the Industrial Court with regard to this grievance and hence the petition needs to be allowed.

8. Shri Choukidar, learned Advocate for the respondent / management

has promptly drawn my attention to the Government Resolution dated 8.6.1995, which provides for the said Scheme. There is no dispute as regards the requirement of 12 years service post permanency. He, however, has pointed out from the Annexure to the said Government Resolution that before granting the benefits of the said Scheme, the last 5 years work record of the concerned employee has to be considered and the same needs to be unblemished.

9. He has then indicated from the service record of the petitioner that she has been punished with issuance of warning or strict warning on eight occasions. He also points out from paragraph No.12 of the Written Statement filed by the respondent / management that due to her past record being blemished, which was placed before the Court, she was not entitled to claim the benefits of time scale promotion. Nevertheless, he submits that subsequently, the said promotion has been granted to the petitioner with effect from 2009.

10. Having considered the submissions and the record available, it is apparent that the respondent / management has followed the Government Resolution dated 8.6.1995. The petitioner was rightly deprived of the benefits of the Scheme in 2005, which has been granted to her in 2009.

11. I, therefore, do not find that the impugned judgment could be termed as perverse or erroneous. The petition is devoid of merits and is, therefore, dismissed.

12. Rule is accordingly discharged. No order as to costs.

(RAVINDRA V. GHUGE, J.)

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akl/d