

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO. 11525 OF 2009
IN WP/2900/2007INDUMATI SHARNAPPA WAGDURE
VERSUS
THE STATE OF MAHARASHTRA AND ORS

Advocate for Applicant : Mr. A. V. Sakolkar h/for Mr. V G Sakolkar
 AGP for Respondents-State: Mr. Y. M. Kshirsagar
 Advocate for Respondent No.5 : Mr. A. V. Patil Indrale

**CORAM : S. V. GANGAPURWALA &
 V. L. ACHLIYA , JJ.**

DATE : 13th February, 2015

PER COURT :

1. This is an application seeking review of the order dated 3rd July, 2007 dismissing the writ petition.

2. Mr. Sakolkar, the learned counsel for the petitioner submits that the present applicant had filed writ petition seeking pensionary benefit, however, the same was dismissed only on the ground that the appointment of the petitioner was only as a temporary employee. However, the same is not a fact. The petitioner was paid salary as per pay scale and his service was also regularized. The learned counsel seeks to rely on the order issued by the Accounts Officer, Pay & Pension Unit dated 27th July 1991. Mr. Patil, the learned counsel for the employer does not dispute that the petitioner was permanent employee and even the entry as per the application is made in the service book that the petitioner is paid salary as per pay scale and his services are regularized.

3. This Court, vide order dated 3rd July, 2007 dismissed the writ petition only on the ground that the petitioner has not been regularized and was a temporary employee relying on the order dated 01.07.1989 and in the light of that the petitioner is not eligible for pension.

4. The order dated 27th July, 1991 probably was not brought to the notice of this Court while dismissing the writ petition. Even in the affidavit in reply filed by the respondents the fact that the services rendered by the present applicant in the Special Workshop is not disputed. However it is stated that the petitioner is not entitled to the pension as he was working in training centre.

5. The premise on which the writ petition was dismissed is different. The documents placed on record will have to be considered. Prima facie it appears that the petitioner was treated as a regular and permanent employee. This aspect is required to be reconsidered.

6. In the light of above, the order dated 3rd July, 2007 passed in Writ Petition No. 2900 of 2007 is reviewed and recalled. Writ Petition No. 2900 of 2007 is restored to its original position. Review application is accordingly disposed of.

(V. L. ACHLIYA, J.)

(S. V. GANGAPURWALA, J.)

JPC