

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8359 OF 2013

Asaram Vitthal Shitre and another .. Petitioners

Versus

The State of Maharashtra and another .. Respondents

Shri Amol N. Kakade, Advocate for Petitioners.

Shri K. G. Patil, Addl.G.P. for Respondent Nos. 1 and 2.

Shri S. T. Shelke, Advocate for the Respondent No. 3.

WITH

WRIT PETITION NO. 8381 OF 2013

Ramnath S/o Waman Pagar .. Petitioner

Versus

The State of Maharashtra and Others .. Respondents

Shri Amol N. Kakade, Advocate for the Petitioner.

Shri K. G. Patil, Addl.G.P. for Respondent Nos. 1 and 2.

WITH

WRIT PETITION NO. 6243 OF 2014

Sikandar Nabhubhai Shaikh .. Petitioner

Versus

The State of Maharashtra and Others .. Respondents

Shri A. D. Sugdare, Advocate for the Petitioner.

Shri K. G. Patil, Addl.G.P. for the Respondent No. 1.

Shri S. T. Shelke, Advocate for the Respondent Nos. 2 and 3.

**WITH
WRIT PETITION NO. 6242 OF 2014**

Sudam S/o Kanhu Aware .. Petitioner

Versus

The State of Maharashtra and Others .. Respondents

Shri A. D. Sugdare, Advocate for the Petitioner.

Shri K. G. Patil, Addl.G.P. for the Respondent No. 1.

Shri S. T. Shelke, Advocate for Respondent Nos. 2 and 3.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 13TH AUGUST, 2015.

PER COURT :

. The petitioners were appointed as Mustering Assistants. The petitioners filed Complaint ULP No. 529 of 1988, Complaint ULP No. 521 of 1988, Complaint ULP No. 36 of 1989 and Complaint ULP No. 299 of 1989 alleging unfair labour practice and directing grant of status and privileges of permanency and other consequential benefits from the date of complaint. The same was allowed by the Industrial Court directing the respondents/State to grant status and privileges of permanency and other consequential benefits. The learned counsel for respective petitioners submit that, one of the mustering assistant filed Writ Petition No. 2946 of 1997 before this Court at it's Principal seat at Bombay. The Division Bench of this Court gave

directions in the said writ petition to consider the past services for grant of pension in view of the judgment and order passed by the Industrial Court. The same relief is being claimed by these petitioners in the present writ petitions. The learned counsel submit that, the special leave petition filed against the said judgment and order of this Court is also dismissed.

2. The learned Additional Government Pleader states that, the past service cannot be considered of the petitioners in view of the scheme framed by the Government and approved by the Apex Court vide Government Resolution dated 01.12.1995 and the subsequent Government Resolution of the year 1999. The learned Addl. G. P. further submits that, it is only after the mustering assistants are absorbed in Government service, they can be considered as Government employees and benefits of Government service can be accorded to them. As these petitioners after absorption did not complete the period of qualifying service, they are not entitled for pensionary benefits.

3. It is not disputed that in these matters, the petitioners had approached the Industrial Court by filing complaint ULP. The said complaints are allowed and Industrial Court directed present respondent/State to accord those complainants/petitioners herein status and privileges of permanency and consequential benefits from the date of filing of complaints. As the pensionary benefits are not being accorded,

one of such complainants filed writ petitions bearing Writ Petition No. 2946 of 1997, Writ Petition No. 2236 of 1997 and Writ Petition No. 2246 of 1997. The Division Bench of this Court partly allowed the said petitions and passed the following order.

1. In view of the Judgment and Order dated 08th April, 1997 passed by the learned Industrial Court, Solapur, for the purpose of considering the grant of pensionary benefits, the Petitioners shall be treated as Permanent Employees with effect from 01st October, 1988 till the respective dates of superannuation.

2. In case of the Petitioners who were already superannuated, it will be open for them to make a representation to the concerned Authorities for grant of pensionary benefits.

3. If such representation is made, same shall be decided as expeditiously as possible and preferably within a period of four months from the date on which the representations are made.

4. We make it clear that, apart from issuing directions regarding the date of permanent employment of the respective Petitioners, we have not examined the case of the Petitioners as regards the eligibility of pensionary benefits.

5. Rule is made partly absolute on both terms with no order as to costs.

5. The Special Leave Petition filed against the said judgment and order is also dismissed. In the light of that, we adopt the same course as adopted by this Court in the above said writ

petitions and pass the following order.

1. In view of the Judgment and Order dated 29.12.1994 passed by the learned Industrial Court, Ahmednagar, for the purpose of considering the grant of pensionary benefits, the Petitioners shall be treated as Permanent Employees with effect from the date of their complaints i. e. from the date of filing of their respective ULP's till the respective dates of superannuation.

2. In case of the Petitioners who were already superannuated, it will be open for them to make a representation to the concerned Authorities for grant of pensionary benefits.

3. If such representation is made, same shall be decided as expeditiously as possible and preferably within a period of four months from the date on which the representations are made.

4. We make it clear that, apart from issuing directions regarding the date of permanent employment of the respective Petitioners, we have not examined the case of the Petitioners as regards the eligibility of pensionary benefits.

5. Rule is made partly absolute on above terms with no order as to costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]