

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9633 OF 2014

1. Pralhad S/o Rambhau Dhage,
Age-53 years, Occu-Service,
R/o Panchayat Samiti Paithan,
Dist. Aurangabad,
2. Goraknath S/o Punjaba Ingle,
Age-55 years, Occu-Service,
R/o P.S.Vaijapur, Dist.Aurangabad,
3. Uttam s/o Raibhan Pawar,
Age-54 years, Occu-Service,
R/o Z.P.Works Sub Division,
Kannad, Dist.Aurangabad,
4. Dattu Tukaram Kale,
Age-48 years, Occu-Service,
R/o Z.P.Works Sub Division
Kannad, Dist.Aurangabad,
5. Sudhakar Baburao Pagar, (Dead)
Through his LR,
Akashaya Sudhakar Pagar,
Age-20 years, Occu-Unemployed,
R/o Bahirgaon, Tq.Kannad,
Dist.Aurangabad,
6. Pravesh Isaq Pathan,
Age-55 years, Occu-Service,
R/o Z.P. Works Sub Division,
Kannad, Dist.Aurangabad,
7. Riyaz Ayaz Shah,
Age-50 years, Occu-Service,
R/o Panchayat Samiti Kannad,
Dist.Aurangabad

PETITIONERS

VERSUS

1. The Chief Executive Officer,
Zilla Parishad, Aurangabad,
2. The Executive Engineer,
Z.P. (Works) Division,
Z.P. Aurangabad

RESPONDENTS

WITH
WRIT PETITION NO.9634 OF 2014

Vithal S/o Vishwanath Ingle,
Age-54 years, Occu-Service,
R/o Ladgaon Road, Talathi Colony,
Vaijapur, Tq.Vaijapur,
Dist. Aurangabad

PETITIONER

VERSUS

1. The Chief Executive Officer,
Zilla Parishad, Aurangabad,
2. The Deputy Engineer,
M.I.Z.P. Sub Division, Kannad,
Dist.Aurangabad

RESPONDENTS

WITH
WRIT PETITION NO.9635 OF 2014

1. Bhaskar Dnyandeo Kunte,
Age-51 years, Occu-Service,
R/o Samta Nagar, Sillod,
Dist. Aurangabad,
2. Prakash Karbhari Tupe,
Age-43 years, Occu-Service,
R/o Babhulgaon (Kh.), Tq.Vaijapur,
Dist.Aurangabad

PETITIONERS

VERSUS

1. The Chief Executive Officer,
Zilla Parishad, Aurangabad,

2. The Executive Engineer,
Z.P. (Works) Division,
Z.P. Aurangabad

RESPONDENTS

Mr.D.R.Irale Patil and Mr.C.V.Dharurkar, Advocate for the petitioners.
Mr.M.C.Swami, Advocate for respondent Nos.1 and 2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 09/07/2015

ORAL JUDGMENT :

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

2. The petitioners are aggrieved by the impugned order dated 08/10/2014 passed by the Industrial Court in Complaint (ULP) No.102/2011, 98/2011 and 103/2011, by which interim protection during the pendency of their complaints has been refused by the Industrial Court.

3. This Court (Vacation Judge) by order dated 22/10/2014 passed in these 3 petitions had granted interim protection to the petitioners. The said protection has been continued and the petitioners, as on date, stand protected by the order passed by this Court.

4. Since an identical issue arising out of the same Government Resolution / circular / policy of the State is involved, I have heard these petitions together for final disposal.

5. It is indicated by Mr.Irale Patil that the State Government introduced a Resolution (G.R.) dated 23/08/2010 proposing the unification of 7 cadres. That was based on the scheme formulated in 1989. A single cadre was constituted.

6. The petitioners, who are original complainants, are aggrieved by the order dated 18/07/2011, by which the petitioners are sought to be reverted. They are in service for more than two decades, were initially appointed on daily wages and were later inducted on Converted Regular Temporary Establishment (C.R.T.E.) as per the Kalelkar's Award. The complaints invoking Item Nos. 3,5 and 9 of Schedule IV of the M.R.T.U, and P.U.L.P. Act are pending adjudication.

7. The limited grievance of the petitioners is that pending hearing of their complaints, they should be granted protection against reversion since some of the petitioners are likely to retire in the near future. If the complaints are decided after effecting their reversion

and after their retirement, it would create complications especially in relation to their retiral benefits. No loss or harm would have been caused to the respondent/employer, if such protection was granted at the interim stage.

8. It is pointed out that in similar circumstances, this Court in WP No.86/2011 by order dated 10/01/2011 had directed the Industrial Court to decide the complaints expeditiously and status-quo was directed to be maintained. Mr.Patil, therefore, submits that the petitioners having been protected by order dated 22/10/2014 (Vacation Court) by this Court, the said protection could be continued for a short period and the complaints, which are instituted in the year 2011, can be decided within a time frame. The petitioners shall not seek adjournments on frivolous and unreasonable grounds. Any such adjournment, if sought, can be rejected by the Industrial Court by imposing costs on the petitioners. No loss or harm would be caused to the respondent if the protection granted 9 months ago is continued for another 6 months.

9. Mr.Swami, learned Advocate for the respondents has vehemently opposed the petitions as well as the request put forth by Mr.Irale Patil, learned Advocate.

10. He submits that the petitioners were taken on C.R.T.E. as “Gangman”. This post of “Gangman” was not included in the scheme of unification. The petitioners are given the post of “Mistry (Grade-I)” and “Mistry (Grade-II)” by following the designation allotted as per the nature of work. Naturally, the pay scale is accorded accordingly.

11. He, therefore, submits that there is no reversion caused by the impugned order dated 18/07/2011. A pretentious contention is put forth by the petitioners only to gain the sympathy of the Court. He further submits that the order dated 10/01/2011, which has been referred to by Mr.Patil passed by this Court, is on different set of facts.

12. I have considered the submissions of the learned Advocates for the respective sides. It is undisputed that by order dated 22/10/2014, the petitioners have been protected by this Court. It is also not in dispute that the interim order is passed by the Industrial Court on 08/10/2014 when the complaints were instituted in 2011. It is also not in dispute that the impugned order before the Industrial Court is dated 18/07/2011, which has not been given effect to till the

Industrial Court passed the order, for the past about 4 years.

13. In the light of the above, ends of justice would be met by maintaining the status-quo which has been maintained by the respondents from 18/07/2011 till this date. The complaints pending can be directed to be decided within a time frame, recording the statement of the litigating sides that they will not seek adjournments.

14. In the light of the above, these petitions are partly allowed in terms of the protection granted by this Court by its order dated 22/10/2014. Said protection shall continue till 30/01/2016. The Industrial Court shall decide these complaints as expeditiously as possible and on or before 30/01/2016. Statement of the litigating sides that they would not seek adjournments on frivolous and unreasonable grounds is accepted as a statement made to this Court. Any such adjournment, if sought, shall be liable to be rejected.

15. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)