

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

**LETTERS PATENT APPEAL ST. NO. 30060 OF 2011
IN
WRIT PETITION NO. 5006 OF 2011**

Chandrakan Ganpatrao Kadam
& others

.. APPELLANTS

VERSUS

The Maharashtra State Road
Transport Corporation

.. RESPONDENT

Mr. A.S. Bayas, advocate for appellants.
Mr. D.S. Bagul, advocate for respondent.

=====

**CORAM : R.M. BORDE &
P. R. BORA, JJ.**

DATE : 13th JULY, 2015

PER COURT :

1. Appellant is challenging decision rendered by the learned Single Judge of this Court in Writ Petition no. 4985/2011 and other companion matters. The issue is in respect of incorporation of clause no. 49 of 1956 Settlement.

2. The employees are claiming that they are entitled to all the benefits stated in clause 49 of 1956 Settlement including absorption in service. The stand of the Corporation is that the benefits in respect of regularisation or absorption are dependent upon the terms of the Resolution no. 8856 and clause 19 of 1985 Settlement. The issue has been dealt with by the Full Bench of this Court in the matter of Maharashtra State Road Transport Corporation, Nagpur Vs. Premlal s/o Khatri Gajbhiye. The Full Bench has observed that clause 49 of 1956 Settlement relates to grant of time scale of pay and all the benefits available to the time scale workers to such of those

who had completed 180 days continuously including weekly offs and other holidays, while the latter refers to the issue of absorption of daily rated workmen on completion of 180 days of continuous service. It is further observed by the Full Bench that those are totally two different concepts relating to the mode of employment. In the absence of specific clause in the 1985 Settlement disclosing a clear understanding on the part of the parties to settlement to replace clause 49 of 1956 settlement by clause 19 of 1985 settlement, there could be no justification to agree and accept the contention in that regard sought to be advanced on behalf of the appellants before the Full Bench. In this view of the matter, the Full Bench has observed that the contention that clause 19 of 1985 settlement replaces clause 49 of 1956 settlement was rightly rejected by the learned Single Judge. The situation is now clear that clause 49 of 1956 settlement relates to monetary matters whereas the latter i.e. clause 19 of 1985 settlement relates to issue of absorption. This situation has been clarified in the judgment of the Supreme Court which has been recorded by the learned Single Judge in the impugned judgment.

3. The learned Single Judge of this Court while dealing with Writ Petition No. 888/2004 and other companion matters has directed the Maharashtra State Road Transport Corporation to provide all the benefits admissible to regular employees working in the Corporation on time scale of pay provided they satisfy the eligibility criterion of having worked for aggregate service of 180 days and subject to their satisfying all the conditions prescribed for their entitlement in terms of resolution no. 8856

read with clause 19 of 1985 Settlement. The learned Single Judge in the impugned order has proceeded to confirm the said view and it is ordered accordingly. Learned counsel for appellant contends that the employees before the Court have been appointed by observing due procedure prescribed under law and as such, it is incumbent upon the Corporation to absorb them. It would be for the Corporation to consider as to whether requirements under resolution no. 8856 read with clause 19 of 1985 settlement have been complied with and as to whether the employees before us are entitled to regularisation in service. Decision is to be taken by the Corporation in accordance with the settlement reached between the parties. We are of the view that the learned Single Judge has adopted a reasonable approach in the matter. Apart from this, it has been pointed out that by following the decision rendered by the learned Single Judge which is impugned in the appeal, another Single Judge while dealing with Writ Petition no. 2796/2015 and other companion matters, has disposed of the petitions in accordance with the directives issued in the earlier writ petition dealt with by the learned Single Judge. We do not find any error apparent on the face of the record committed by the learned Single Judge while disposing of the writ petitions. Letters patent appeal is devoid of substance hence stands dismissed.

4. Pending civil application, if any, does not survive and stands disposed of.

(P. R. BORA)
JUDGE

dyb

(R. M. BORDE)
JUDGE