

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
LETTERS PATENT APPEAL NO.399 OF 2011 IN
WRIT PETITION NO.2928 OF 2002

Mahatma Phule Krishi Vidyapeeth,
Rahuri

Appellants

Versus

Smt.Shahabai Ganpat Padekar & others

Respondents

Mr.P.L.Shahane, advocate for appellants
Mr.C.K.Shinde, advocate holding for Mr.S.T.Shelke, advocate for
Respondents No.1 to 3.

CORAM : R.M.BORDE &

A.I.S.CHEEMA, JJ.

DATE : 18th December, 2015

PER COURT:

1 The appellant is challenging order passed by the learned Single Judge of this Court in Writ Petition No.2928 of 2002.

2 Respondent-employees approached the Industrial Court claiming benefits under the award passed in Reference ID No.27 of 1984 on 01.04.1985, such as pensionary benefits, gratuity, etc. Under the award, the Management has been directed to make such of those employees permanent who have completed more than six months' service on or before 01.01.1978. It is further directed that the University shall follow the rules in respect of any error while passing impugned order. The learned Single Judge has observed in para 9 of the judgment that in view of the fact that the award has been made final, those employees who have

completed six months' service on or before 01.01.1978 shall be made permanent. It has been further observed that there is no room for interpretation that the date was not mentioned and so the employee shall not be made permanent from the date of award.

3 It has been further pointed that the aforesaid award was also a matter of consideration before the Supreme Court in the case of **Mahatma Phule Agricultural University & others Vs. Nashik Zilla Sheti Kamgar Union & others**, reported in 2001 III CLR 4. The judgment of the Supreme Court proceeds in different set of facts and as such is inapplicable in the instant matter.

4 Learned Counsel appearing for the appellant states that in fact under the award, employees have been made permanent after 1984 and that they have accepted the said orders and orders granting them benefit of permanency at later point of time. It is further contended that the benefit of conferment of permanency would be subject to availability of the posts.

5 In our opinion, learned Single Judge has dealt with the issue and has found that under the award employees, who were employed six months' prior to 01.01.1978, are entitled to be made permanent. It has further been pointed out that certain benefits were claimed in respect of difference of salary and wages under the same award in Complaint (ULP) No.42 of 2005. It is the contention of appellant that Respondents herein are also party to the said Complaint (ULP). The Industrial Court allowed the complaint and directed grant of benefits in respect of difference of salary and wages. The matter in respect of finality of the award was subjected

to consideration in those proceedings. The aforesaid judgment was taken up for consideration by the learned Single Judge in Writ Petition No.3048 of 2012, which has been disposed of on 02.12.2013. The learned Single Judge has also reiterated attainment of finality of award dated 01.01.1985. Learned Single Judge of this Court confirmed judgment of the Industrial Court in aforesaid matter which had attained finality in view of rejection of SLP presented by the University to the Supreme Court by way of CC No.6551 of 2014, decided on 28.04.2014. The contention raised by appellant that since the issue of grant of date of permanency has attained finality and that there was no interference permissible by the Industrial Court or by the learned Single Judge of this Court, cannot be accepted.

6 For the reasons recorded above, Letters Patent Appeal is devoid of substance. Hence stands dismissed. Pending Civil applications do not survive and stand disposed of.

A.I.S.CHEEMA
JUDGE

adb/lpa39911

R.M.BORDE
JUDGE