

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.495 OF 2014

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.N.P.Patil Jamalpurkar, advocate for the petitioners.

Mrs.Y.M.Kshirsagar, Asstt. Govt. Pleader for the State.

Mr.V.D.Sapkal, advocate for Respondent No.2.

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

Date : 12.02.2015.

PER COURT :

1. Heard.

2. Mr.Patil, learned counsel for the petitioners submits that similarly situated persons have been accorded permanency and their services have been regularised. The petitioners are working on the post of Group Secretary with the Respondent No.2 since February 2004 continuously. A Resolution has been taken on 29.5.2004 by the Board of Directors of Respondent No.2 to absorb petitioners and other 15 employees on the post of Group Secretary in the pay-scale of Rs.4000-6000. According to the learned counsel, the other similarly situated employees who had filed the ULP before the Labour Court have been accorded the benefit of

permanency and the pay-scale. The petitioners are singled out. According to the learned counsel, the principle of '*equal pay for equal work*' would apply. The petitioners are entitled for pay-scale of Rs.4,000-6,000 with effect from 1.3.2000.

3. Mr.Sapkal, learned counsel submits that the petitioners did not file any ULP seeking regularisation and application was filed U/s 33C(2) of the Industrial Disputes Act. The order was passed by the Industrial Court. The Respondents filed a Writ Petition against the said order which came to be allowed and the order of the Court below U/s 33C(2) of the Industrial Disputes Act, was set aside. In the said Writ Petition, the Court has specifically made observation that the Respondents therein i.e. the petitioners herein are entitled to approach the Labour and Industrial Court under the MRTU and PULP Act. In light of that, the petitioners could not have approached this Court directly. When the order U/s 33C(2) of the Industrial Disputes Act in favour of the petitioners is set aside, no question arises of the petitioners being paid pay-scale from retrospective effect.

4. We have considered the submissions canvassed by the learned counsel for respective parties. It is not disputed by the Respondents that those persons who were appointed along with the present petitioners pursuant to the same Resolution have been accorded permanency and are being paid as per the pay-scale. It

would be a formality in asking the petitioners to again approach the Industrial and Labour Court under the MRTU and PULP Act. All other employees who are similarly situated as that of the petitioners have been accorded permanency. The petitioners naturally would be given the same treatment being similarly situated in all respects i.e. date of appointment, the post on which they are appointed is one and the same and all are appointed pursuant to one and the same Resolution.

5. As far as awarding pay-scale from 1.11.2004 is concerned and ordering payment of the same, the same would be inequitable at this stage. The pay-scale was awarded by the Court U/s 33C(2) of the Industrial Disputes Act. The said order is set aside by this Court in Writ Petition filed by the Respondents. In light of that, though we hold that the petitioners are entitled to be granted permanency as is accorded to the other similarly situated employees, the petitioners would be entitled for the regular salary as per the pay-scale of Rs.4,000-6000 per month from the date of this order. However, for all further service and retiral benefits, the petitioners would be deemed to be considered as permanent as is granted to the other similarly situated employees i.e. from the year 2004.

6. The Writ Petition is accordingly disposed of with aforesaid

observations and directions. No costs.

(V . L . ACHLIYA, J .)

(S . V . GANGAPURWALA, J .)

Dt..12.02.2015.
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