

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4327 OF 2014
ALONGWITH
CIVIL APPLICATION NO. 1877 OF 2014
ALONGWITH
CIVIL APPLICATION NO. 2265 OF 2014

Kolhapur Municipal Corporation

.....Petitioner

: V/S :

Kolhapur Mahanagar Palika

Pani Puravatha Karmachari Sangha

.....Respondent

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Mr. S.S. Patwardhan, Advocate for the petitioner.

Mr. Umesh Desai, Advocate for the respondent.

Mr. M.S. Topkar, Advocate for applicant, Intervenor in Cas-1877 and 2265 of 2014.

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Coram :- Smt. R.P. SondurBaldota, J.

15th JUNE, 2015.

P.C. :-

1). This petition is directed against the order dated 12th July, 2013 by which the Industrial Court allowed Complaint (ULP) No. 224 of 2006 and directed the petitioner, Kolhapur Municipal Corporation to pay the difference of salary as per the 5th Pay Commission w.e.f. 1st January, 1996 to 13th September, 2001 to the employees taken over by it

from Maharashtra Jeevan Pradhikaran. The petitioner is further directed to give benefits of time bound promotion and time bound pay scale and difference of salary w.e.f. 1st October, 1994 onwards to such employees. The difference was to be paid by equal installments.

2). The petitioner, Kolhapur Municipal Corporation challenges the order contending that there cannot be two sets of rules governing the service conditions of its employees and that by its letter dated 29th February, 2000 the State Government has clarified that service conditions of Maharashtra Jeevan Pradhikharan are not applicable to the employees transferred to the petitioner's establishment. These two contentions have been specifically dealt with by the Industrial Tribunal at paras-23 and 24 of the impugned order. The two paras are reproduced below :-

“23. The Ld. Advocate for the Respondent Corporation has submitted that the Respondent Corporation had approached to the Government vide its letter dt. 22-3-1999 to know as to which the service conditions should be made applicable to the members of the Complainant union. He has further submitted that the Government had given a reply to its letter dt. 29-2-2000 which is at Ex. C-13 informing that the service conditions of the Respondent Corporation will be applicable to them and not earlier service conditions of Maharashtra Water Supply and Sewerage Board.”

“24. In the cross-examination the witness of the Respondent Corporation has admitted that in the letter dt. 22-3-1999 the Respondent Corporation had not informed to the State Government that the Industrial Court had

given a stay to its circular dt. 5-12-1992 and the employee had given option about that service conditions. He has admitted thereafter the Respondent Corporation had received a letter from the Government dt. 29-2-2000. He has further admitted that the Complainant union had demanded a copy of Government letter dt. 29-02-2000. He has stated he is unable to say as to whether the Complainant union had called upon explanation from the Government for its letter dt.29-2-2000. He has further admitted that the Government had given a clarification by its letter dt. 28-6-2000 to its earlier letter dt. 29-2-2000. He has also admitted that the Dy. Secretary of Government of Maharashtra had called upon a report about the service conditions of the employees of Respondent Corporation on 28-2-2001. He is unable to tell as to whether the Respondent Corporation had informed the real fact about the letter dt. 28-6-2000.”

On the above discussion, the Industrial Court concluded that the petitioner had accepted the previous service conditions of the Maharashtra Jeevan Pradhikaran to the employees transferred to it and therefore those service conditions continue to apply to them.

3). It is also noted by the Industrial Court at para-18 of the impugned order that by the order dated 7th April, 2003 passed in Complaint (ULP) No. 345 of 1992 under Items 9 and 10 of Schedule-IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act (“MRTU & PULP Act” for short), it had declared that the petitioner had engaged in unfair labour practice under Item-9 of Schedule-IV of the MRTU & PULP Act and directed the petitioner to continue previous service conditions to its transferred

members w.e.f. 1st January, 1992 till their retirement. Undisputedly, this order has neither been complied with by the petitioner nor challenged in any Court of law. In the circumstances, there is no infirmity whatsoever in the impugned order. The petition is dismissed with costs.

4). In view of dismissal of the petition, Civil Application No.1877 of 2014 and Civil Application No. 2265 of 2014 become infructuous and are disposed off accordingly.

(SMT. R.P. SONDURBALDOTA, J)