

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION (ST) NO. 25426 OF 2015

Rajendra Vitthal Kale (Patil)	... Petitioner
v/s	
Divisional Controller, Maharashtra State Transport Corpn., Sangli.	... Respondent

***ALONG WITH
WRIT PETITION (ST) NO. 25427 OF 2015***

Sambhaji Shivaji Patil	... Petitioner
v/s	
Divisional Controller, Maharashtra State Transport Corpn., Sangli.	... Respondent

***ALONG WITH
WRIT PETITION (ST) NO. 25436 OF 2015***

Mahadeo Raghunath Jadhav	... Petitioner
v/s	
Divisional Controller, Maharashtra State Transport Corpn., Sangli.	... Respondent

***ALONG WITH
WRIT PETITION (ST) NO. 25438 OF 2015***

Anil Y. Patil	... Petitioner
v/s	
Divisional Controller, Maharashtra State Transport Corpn., Sangli.	... Respondent

ALONG WITH
WRIT PETITION (ST) NO. 25439 OF 2015

Ganesh S. Patil	... Petitioner
v/s	
Divisional Controller, Maharashtra State Transport Corpn., Sangli.	... Respondent

ALONG WITH
WRIT PETITION (ST) NO. 25441 OF 2015

Balkrishna Babu Lohar	... Petitioner
v/s	
Divisional Controller, Maharashtra State Transport Corpn., Sangli.	... Respondent

ALONG WITH
WRIT PETITION (ST) NO. 25443 OF 2015

Vasant A. Patil	... Petitioner
v/s	
Divisional Controller, Maharashtra State Transport Corpn., Sangli.	... Respondent

Mr.Kedar Lad along with Rushikesh Patil for the petitioner in all petitions.
None present for the respondents.

CORAM: N.M. JAMDAR, J.
DATED : 14 DECEMBER 2015

PC.:

By these petitions, the Petitioners challenge the Award of the Labour Court, Sangli, dated 8 April 2015 answering the Reference

in negative. The Petitioners filed Complaint on the ground that they worked from 1985 to 1991 as sweepers with the Respondent Corporation. A Complaint was filed through the Union in the year 1991, which was dismissed in 1996 on technical ground with liberty to file a fresh complaint. Thereafter they gave demand notice in April 2010 which was not accepted and therefore Reference was made. The Industrial Court found that there was a delay of 20 years in approaching the Court after their termination and also that the Petitioners were engaged for a limited period of time for washing and sweeping the buses at a particular fixed rate. The Industrial Court found that there was no employer-employee relationship and the claim made by the Petitioners was hopelessly belated.

2. Learned counsel for the Petitioners submitted that the Union had earlier filed a Complaint and after it was dismissed on technical ground, the Petitioner gave a demand notice and therefore there was delay. This explanation cannot be accepted. Even assuming that the Union had filed a complaint in the year 1991 and that Petitioners were members of the said Union, or that it was in representative capacity, said Complaint was dismissed in July 1996 and demand notice is given in April 2010 for reinstatement and full back wages. In the light of such hopelessly delayed action on the part of the Petitioners, no fault can be found with the impugned order of the Labour Court.

3. Learned counsel for the Petitioners relied upon the decision of

the Division Bench in the case of *Bajaj Auto Ltd. v/s State of Maharashtra & ors.*, reported in *2007 (2) Mh.L.J. 627*, to contend that the Reference cannot be discarded merely on the ground of delay and laches on the part of the workers. In this decision, the Division Bench was considering whether a writ of mandamus could be issued to set aside the order of Reference made by the Deputy Commissioner of Labour, on the ground of delay and laches. It is, in this context, the Division Bench has made the observations which are sought to be relied upon by the learned counsel for the Petitioner.

4. In the present case, the Labour Court has answered the Reference in negative not only on the ground of delay but also on merits. It is the Petitioner who invoked the writ jurisdiction of this Court and seeking reinstatement in service. In that context, the writ Court is entitled to consider the conduct of the Petitioner. In the present case, the Petitioners have approached the Labour Court 17 years after their termination and are seeking reinstatement in service of a public body.

5. In the circumstances, no relief can be granted to the Petitioners. The writ petitions of similarly situated workers bearing Nos.10201 of 2015, 10197 of 2015, 10199 of 2015 and 10369 of 2015, have already been rejected by the order dated 8 December 2015. The present writ petitions are accordingly rejected.

(N. M. JAMDAR, J.)