

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4125 OF 1995

1. Iyesham Abbasalli,
Age-24 years, Occu-Service,
R/o Azam Colony, Roshangate,
Aurangabad,
2. Namdeo Shenfadu Mhaske,
Age-27 years, Occu-Service,
R/o N-6, G-30/4, Cidco,
New Aurangabad
3. Devidas Keruba More,
Age-28 years, Occu- Service,
R/o Labour Colony,
Harshnagar, Aurangabad

PETITIONERS

VERSUS

Aurangabad Municipal Corporation,
Aurangabad, through its Municipal
Commissioner, Aurangabad

RESPONDENT

WITH

WRIT PETITION NO.4128 OF 1995

Babasaheb Kashinath Barfe,
Age-Major, Occu-Service,
R/o Tisgaon, Tq. And District
Aurangabad

PETITIONER

VERSUS

Aurangabad Municipal Corporation,
Aurangabad, through its Municipal
Commissioner, Aurangabad

RESPONDENT

Mr.A.D.Sugdare, Advocate for the petitioners in WP No.4125/1995.
Mr.D.A.Karnik h/f Mr.Vivek J.Dhage, Advocate for the petitioner in
WP No.4128/1995.

Mr.S.N.Pagare, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 11/08/2016

ORAL JUDGMENT :

1. In both these matters, the identically placed employees have challenged the judgment of the Industrial Court dated 09/08/1995 in the commonly filed Complaint (ULP) No.47/1993. The complaint has been dismissed by the Industrial Court on the ground that the complainants were working as Lineman on temporary basis, they were not ITI Trade qualification holders and they had not completed 10 years in the Water Supply Department on the basis of which experience, they could claim the post of a Lineman. It is also concluded that if they continue to work for 10 years in the Water Supply Department and discharge the work of a Lineman, they can claim the status of a Lineman as per the Government Resolution.

2. This Court, while admitting these petitions by order dated 19/09/1995, has directed the respondent/Corporation not to terminate the petitioners only on the ground of dismissal of their complaint.

3. The petitioners had moved a Civil Application No.7142/1998 in WP No.4125/1995 seeking directions to the Corporation to consider the claim of the petitioners for the post of Linemen as the said positions were being filled in by the Municipal Corporation. By a detailed order dated 26/02/1999, this civil application was rejected for the reason that no case was made out by the petitioners for seeking such directions.

4. Mr.Pagare, learned Advocate submits that he is not on the panel of Municipal Corporation any longer and therefore expressed his regret that he is not in a position to assist the Court since he has returned the file.

5. I have considered the impugned judgment in the light of the submissions of the learned Advocates for the petitioners and in the light of the available record. I have every reason to concur with the conclusions of the Industrial Court since none of the petitioners were ITI holders which would have made them eligible to seek appointment of a Lineman. However, the Industrial Court has concluded that if the petitioners worked as Linemen on "Incharge Basis", for a period of 10 years, they may be entitled to lay a claim for the benefits and status of a Lineman.

6. I do not find that the impugned judgment of the Industrial Court could be termed as being perverse and erroneous. The complaints have been dismissed as the claims were put forth prematurely. These petitions are, therefore, dismissed. Rule is discharged.

7. Nevertheless, the petitioners would be at liberty to stake a claim for the post of a lineman if they have worked for 10 years consecutively as a Lineman as observed by the Industrial Court in the impugned judgment.

(RAVINDRA V. GHUGE, J.)