

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2160 OF 1996

- 1) Shri. Vijay Waman Thorat,
At - Post - Taluka - District
Dhule, Moglai, Lane No. 2, Dhule.
- 2) Shri. Bhagwan Narayan Beedkar,
Moglai, Gawali Wada, Dhule,
Taluka - District Dhule.
- 3) Shri. Madhukar Shriram Deore,
At - Post - Taluka - Dist.
Dhule, Neharu Nagar,
Municipal Colony, Deopur,
Dhule.
- 4) Shri. Satish Kashinath Sali,
At - Post - Taluka - Taloda,
Dist. Dhule.
- 5) Shri. Yeshwant Gokul Sonawane,
At - Post Chahardi,
Taluka - Chopada,
District Jalgaon.
- 6) Shri. Bhaidas Maharu Patil,
At - Post Chahardi,
Taluka - Chopada,
District Jalgaon.
- 7) Shri. Shreeram Murlidhar Vispute,
At - Post Dondaicha,
Taluka - Sindkheda,
District Dhule.
- 8) Shri. Vikram Jetharam Kharde,
At - Post Rampur,
Taluka - Shahada,
District Dhule.
- 9) Shri. Laxman Mahadu Wadile,
At - Post Taluka - District
Dhule. Lane No. 8,
Deopur, Dhule.

- 10) Shri. Sharad Deoram Tayade,
R/o. Balwadi, Taluka
Raver, Dist. Jalgaon.
- 11) Shri. Nana Ramchandra More,
R/o. Varkheda Road,
Post Eggaon, Taluka
Bhusawal.
- 12) Shri Bhagwan Raghunath Suryawanshi,
At - Nathwade, Jalgaon,
Dist. Jalgaon.
- 13) Shri. Tejrao Janardhan Patil,
Resident Lonwadi, Post Kurhehardo,
Taluka - Bhusawal, Dist. Jalgaon.
- 14) Shri. Ramesh Dayaram Dusane,
At - Post Taluka District Dhule,
Abhiyanta Nagar, Wadibhokar Road,
Deopur, Dhule.
- 15) Mohan Hiranman Wagh,
At - Post, Taluka District Dhule
Santsena Nagar,
Plot No. 39-A, Deopur,
Dhule.
- 16) Shri. Ramdas Pitambar Warude,
At - Post Arave,
Taluka Shirpur,
District Dhule.
- 17) Shri. Chandrakant Devidas Ahrirao
At - Post Taluka District Dhule,
Santsena Nagar, Plot No. 63/B,
Deopur, Dhule.
- 18) Shri Deoram Joka Valvi,
At - Post Dhanora,
Taluka Nandurbar,
District Dhule.
- 19) Shri Sukdeo Jagannath Fulpagare
Lane No. 13, House No. 930,
Subhash Nagar, Dhule.

- 20) Shri. Sharad Harsing Gaikwad,
Resident of Hatti Galli,
Near Ganesh Dudh Dairy,
Parola, Dist. Jalgaon.
- 21) Shri. Vijay Sadashiv Salunkhe,
At - Post Shewali,
Taluka - Sakri, Dist. Dhule
- 22) Shri. Narayan Natthu Khaire,
At - Post Khede,
Taluka - District Dhule.
- 23) Shri. Ravindra J. Chaudhari,
At - Post Taluka Shirpur,
District Dhule.
- 24) Shri. Subhash Deoram Koli,
At - Post Taluka Sindkheda,
District Dhule.
- 25) Shri. Jagdish Wamanrao Patil,
Resident of Virdel Road,
At - Post Sindkheda,
District Dhule.
- 26) Shri. Devidas Bhatu Fulpagare,
At - Post, Taluka-Dist. Dhule,
Lane No. 13/865, Dhule.
- 27) Shri. Bhika Supadu Petkar,
Upaila Chauk, At-Post Taluka Sakri,
Dist. Dhule.
- 28) Shri. Bhajan Bakaram Pawar,
At - Post Lonepada,
Taluka Nandurbar,
District Dhule.
- 29) Smt. Kevalbai Vedu Chavan,
Koliwada, At - Post,
Taluka Sindkheda,
District Dhule.
- 30) Shri Vasant Digambar Suryawanshi,
At - Post - Taluka District Dhule.

- 31) Shri Dajbhau Chaitram Pawar,
At Ambemohar, Post Titone, Taluka
Sakri, District - Dhule.
- 32) Shri. Kalu Motiram Ahire,
At Dhavali Vihir,
Post Chhadvel Korde,
Taluka Sakri, Dist Dhule.
- 33) Shri. Sakharam Dharma Thakur,
At - Post Waghadi,
Taluka Sindkheda,
District Dhule.
- 34) Shri. Atmaram Nana Mistri,
At - Post Taluka - Dist. Dhule.

..PETITIONERS

VERSUS

- 1) State of Maharashtra
- 2) Superintending Krishi Agriculture
Officer, Nasik Division, Nashik.
- 3) The Divn. Soil Conservation Officer,
Dhule, Sakri Road, Dhule.
- 4) Shri V.V. Mangrulkar,
Presiding Officer of Labour Court,
Dhule.
- 5) Shri. S.V. Vitkar,
Member,
Industrial Court, Nasik.

..RESPONDENTS

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Advocate for Petitioners : Shri S.B.Talekar
AGP for Respondents 1 to 3 : Shri P.N.Kutti
Advocate for Respondents 4 & 5 : Deleted.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 15, 2016

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ORAL JUDGMENT :-

1. Respondent Nos.4 and 5 are the learned Presiding Officers of the Labour Court and the Industrial Court, who have been arrayed by name. They are not necessary parties to the proceeding and therefore, respondents 4 and 5 stand deleted.
2. The petitioners have challenged the common judgment of the Industrial Court dated 13.6.1993 by which, the Revision Petitions filed by the respondent / establishment have been allowed and the judgments of the Labour Court, allowing the complaints of the petitioners and granting them reinstatement with continuity in service and full backwages, have been set aside.
3. This petition was admitted on 14.3.1995 and interim relief was refused to the petitioners.
4. I have heard Shri Talekar, learned Advocate for the petitioners at length. Grievance is that all the petitioners had succeeded before the Labour Court and their complaints were allowed. The conclusions of the Labour Court amount to findings on facts and the Industrial Court could not have overturned such findings under its limited revisional jurisdiction under Section 44 of the MRTU and PULP Act, 1971.

5. It is strenuously submitted that each of the petitioners had worked for more than one and half years. While terminating their services, Section 25F of the ID Act was not complied with. The closure of the Scheme under the Employment Guarantee Scheme (“EGS”) cannot give a right to the respondent to terminate the services of the petitioners. Once it is established that Section 25F is violated, the Labour Court rightly granted reinstatement with continuity and full backwages.

6. Shri Talekar has painstakingly taken this Court through the judgments delivered by the Labour Court, by which the complaints were allowed. He, therefore, submits that the Industrial Court, could not have interpreted the evidence differently and could not have set aside the judgments of the Labour Court.

7. Shri Talekar, therefore, prays for quashing of the impugned judgment of the Industrial Court with heavy costs to be imposed on the respondents.

8. Learned AGP appearing on behalf of respondents 1 to 3, has supported the impugned judgment.

9. I have considered the submissions of the learned Advocates

and have gone through the voluminous record available.

10. It is trite law that merely because a litigant has completed 240 days in continuous employment, would not necessarily lead to an order of reinstatement, much less, with continuity in service and full backwages. The petitioners in this case have worked in between 12 months to 18 months in between February 1986 till September 1987. None of the litigating sides are in a position to state, as to whether the petitioners are in employment today. This petition is pending final hearing for twenty years.

11. The Industrial Court has considered the record and proceedings and has rightly come to a conclusion that merely on account of completion of 240 days, an order of reinstatement in the facts and circumstances of the case would be unjustified. It has considered the oral evidence of the parties and has concluded that though initially the petitioners were not working on EGS, since there was scarcity of work, they were given work under the EGS. It is well settled that employees working on EGS cannot claim reliefs under the the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act ") or reliefs in the nature of reinstatement or continued employment.

12. Considering the above situation, the Industrial Court, in order

to make some work available to the petitioners, has passed the following order:-

“ The Revision Petitions allowed.

The impugned order dated 12.6.1991 in Complaint (ULP) No.198/89 and alike others is hereby set aside. However, the revision petition is hereby directed to issue orders to the remaining 14 persons as per their chart Sr. No.1 below application dated 18.6.1993 within a month.

Similarly the revision Petitioner would give an opportunity to those 3 persons who did not join inspite of the orders by sending fresh letters to join within a moth's time.

As and when the 15 others resume within same time limit, they be allowed on employment. Even if some are left out the revision petitioner is given a further direction to consider them preferentially in case vacancies arise in near future.”

13. As such, upon evaluating the evidence on record, the Industrial Court has rightly arrived at a conclusion that as some of the petitioners have joined duties upon being reappointed, work may be made available to them in terms of the directions reproduced above.

14. Hence, I do not find that the impugned judgment of the Industrial Court could be termed as perverse or erroneous so as to

cause an interference in the supervisory jurisdiction of this Court.

15. The petition being devoid of merits is, therefore, dismissed.

Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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