

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2894 OF 1999

1. The Associate Director Research,
National Agricultural Research Project,
Paithan Road, Aurangabad

2. Marathwada Agricultural University,
Parbhani, Through its Registrar

PETITIONERS

VERSUS

1. The State of Maharashtra

2. Dnyaneshwar Chandrabhan Ghogare,
Age-36 years, Occu-Labourer,
R/o Rahulnagar, Paithan Road,
Aurangabad,

3. Nana Sampat More,
Age-36 years, Occu-Labourer,
R/o As above.

4. Ashok Mahadu Jadhav,
Age-34 years, Occu-Labourer,
R/o As above.

RESPONDENTS

Mr.D.R.Irale Patil, Advocate for the petitioner.

Mr.V.P.Latange, Advocate for the respondent Nos. 2 to 4.

Mrs.S.S.Raut, AGP for respondent No.1.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 21/04/2016

ORAL JUDGMENT :

1. This petition was Admitted by this Court on 15/06/1999 and interim relief was granted in terms of prayer clause "C" which reads

as under :-

“Pending hearing and final disposal of this writ petition, the judgment and order passed by the learned Member, Industrial Court, Aurangabad in ULP No.39/1994 (Exh.) be kindly stayed.”

2. The petitioners are aggrieved by the judgment and order dated 26/02/1999 delivered by the Industrial Court, Aurangabad by which the complaint was partly allowed.

3. 5 complainants had preferred a joint complaint. Claim was made for parity in wages and for permanency. The claims of complainant Nos.3 and 5 have been rejected and the claims of complainant Nos. 1,2 and 4 have been allowed only to the extent of granting them parity in wages for the days they have actually worked as skilled labourers in accordance with the circular dated 31/05/1988. This relief is granted from 01/01/1999. The prayer for permanency with regard to all the original complainants has been rejected and none of them have approached this Court against the said rejection.

4. Mr.Irale Patil, learned Advocate appearing on behalf of the petitioners has strenuously criticized the impugned judgment. He

submits that though the first complainant claimed to be a Driver from 16/11/1988, he actually worked as a Cleaner. Complainant No.2 though claimed to be a Wireman from 15/02/1983, is not a skilled employee. Complainant No.4 though claims to be an Observation Assistant from 15/05/1986, is not a skilled employee.

5. He further submits that these 3 original complainants, who are respondent Nos. 2, 3 and 4 herein, were temporarily engaged as daily wagers. They have not worked continuously. There was no appointment order issued. There was no selection process followed while engaging them as daily wagers.

6. He submits that the Industrial Court has erroneously concluded that these 3 respondents performed work of a skilled nature and none of them are entitled for wages payable to skilled labourers. He has criticized the conclusions drawn by the Industrial Court and submits that merely because some Officer of the petitioner/University has issued Experience Certificate to these 3 respondents, it would not convert them from unskilled daily wagers into skilled daily wagers. He, therefore, prays for quashing and setting aside of the impugned judgment to the extent of these 3 respondents.

7. Mr.Latange, learned Advocate submits that during the pendency of this petition, respondent No.3 Nana Sampat More has been granted regularization. Mr.Latange is instructed to make this statement by the said respondent.

8. Mr.Latange has drawn my attention to the conclusions arrived at by the Industrial Court from paragraph No.13 onwards. He submits that Experience Certificate was issued by the competent Officers of the petitioners which were produced before the Industrial Court, duly proved and exhibited. The certificate indicates that complainant No.1 was driving a jeep, a tractor and a mini bus from 16/11/1988. Experience Certificate is issued on 11/08/1989.

9. He submits that the Experience Certificate issued to complainant No.2 indicates that he was working for a long time. The said complainant Nana More has now been regularized in employment as a Wireman.

10. He further submits that complainant No.4 was working as an "Observation Assistant". His name is shown in the list of the employees produced on record by the petitioners.

11. He further submits that the circular at Exh.U-7/3 mentions that the vehicle driver, truck driver, tractor driver would be treated as Skilled Workers. Said circular also states that Observation Assistant and Wireman shall be treated as Skilled Worker. It is not the case of the petitioners that the circular Exhibit U-7/3 was not applicable to the respondents. He, therefore, submits that the Industrial Court has rightly granted parity in wages to these 3 respondents based on the circular issued by the petitioners.

12. I have considered the submissions of the learned Advocates.

13. It is not in dispute that prayer clause "B" of complaint (ULP) No.39/94 pertains to a claim for permanency put forth by the 5 complainants. The claim of permanency with regard to all the complainants has been rejected by the Industrial Court and such rejection has not been challenged by any of the workers in this Court. Similarly, the claim of complainant No.3 Bhanudas Dattatraya Thange and complainant No.5 Harishchandra Balaji Gaikwad has been rejected on all grounds. They have not challenged such rejection before this Court.

14. Complainant No.1 Dnyaneshwar, Complainant No.2 Nana and

complainant No.4 Ashok have partly succeeded in the Industrial Court. The whole issue turns upon the circular at Exhibit U-7/3 dated 31/05/1988. In the said circular, the Vehicle Driver, Observation Assistant and Wireman are treated as skilled employees. The petitioners do not contend that the circular has been issued by an incompetent authority or is wrongly issued.

15. As such, the conclusion of the Industrial Court is that whenever respondent Nos. 2 to 4 have worked as a Vehicle Driver, Wireman and Observation Assistant, they would be entitled to the wages payable to skilled employees. Such a conclusion based on the circular of the petitioners cannot be termed as being a perverse or erroneous conclusion.

16. In the light of the above, I do not find that the impugned judgment could be termed as being perverse or erroneous or likely to cause grave injustice to the petitioner/University.

17. This petition, being devoid of merit, is therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE, J.)