

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1641 OF 1997
(Housabai Ganpati Mekunde Vs.Marathwada Agricultural University
and another)

WITH
WRIT PETITION NO.4177 OF 1997
(Geetabai Vishwamberrao More Vs.Marathwada Agricultural
University and another)

Mr.Parag Shahane h/f Mr.P.L.Shahane, Advocate for the petitioner.
Mr.V.G.Sakolkar, Advocate for respondent Nos. 1 and 2. (Absent)

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 24/11/2016

PER COURT :

1. The petitioners are aggrieved by the judgment dated 10/10/1995 by which their Complaint (ULP) Nos.10/1994 and 11/1994 have been dismissed.
2. None appears on behalf of the respondent.
3. This petition is pending from January 1996 and is awaiting final hearing.
4. With the assistance of the learned Advocate for the petitioner, I have gone through the petition paper book.

5. There is no dispute that the earlier Complaint (ULP) Nos.238/1987, 240/1987 and 241/1987 filed by this petitioner before the Industrial Court for claiming permanency were dismissed by the judgment dated 15/09/1993. The petitioners were granted liberty to approach the University for regularization by filing a representation keeping in view that they were working since 12/08/1975 and 02/10/1974 respectively as a daily wager.

6. In the above backdrop, as the petitioners contend that they were being bypassed, they preferred Complaint (ULP) Nos.10/1994 and 11/1994. The Industrial Court, though by order dated 10/10/1995 has dismissed the complaints, it has rightly concluded in paragraph No.8 that the University has replied on 10/11/1993 with reference to the representation of the petitioners herein that as per the availability of posts and on the basis of the seniority maintained by the University, the complainants would be considered for appointment on permanent basis.

7. There can be no dispute that neither the Industrial Court nor this Court can direct regularization of a daily wager on a post which is not in existence, in state instrumentalities or such Universities. It is only after such posts are available that the candidates can be

considered for absorption depending on their seniority. Such Universities can also move the Government for creation of posts

8. In the light of the above, these petitions are disposed of with the observation that as the Industrial Court has recorded the statement of the University in paragraph No.8 vide its reply dated 10/11/1993, the respondent/University shall abide by its statement and would consider the case of the petitioners accordingly.

9. Rule is discharged.

(RAVINDRA V. GHUGE, J.)