

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 884 OF 1997

Nanded Municipal Council, Nanded,
through its Chief Officer.

...Petitioner

Versus

1. Shri Prabhakar S/o. Bajirao
Joshi and 64 others,
all r/o Near Old Water Tank,
Bus-Stand Road, Nanded,
Taluka and District Nanded.
(R. No. 1 died on 13/05/2013)
2. Vyankappa S/o. Rajappa
3. Ekbal Sulatan
4. Sayyad Mahamad Sayad Ahemad
5. Shankar Somaji Jamdade
6. Shankar S/o. Tukaram Jamdade
7. Narayan S/o. Datta Sontakke
8. Valmik S/o. Vithoba Bidkar
9. Ramkishan S/o. Pandurang Bramkar
10. Nagnath Malikarjun Nathani
11. Maroti S/o. Hashappa
12. Govind S/o. Namdeo Ghodke
13. Kerba S/o. Deoba Sonsale
14. Chandu S/o. Kishan Waghmare
15. Ashraf Alli S/o. Munar Alli
16. Shamrao S/o. Digambar Bhosikar

17. Nagnath S/o. Namdeo Panchal
18. Vasant Madhavrao Berlikar
19. Padmakar S/o. Vyankatrao Bhosle
20. Rajanna Durgayya
21. Sayyad Ahemad Sayyad Maddar
22. Shankar Maroti Talewar
23. Keshavrao Ganpatrao Pande
24. Elthaskhan Samsirkhan
25. Kiran Tukaram Shastri
26. Vishnupant Kashinath Yannawar,
27. Mahamad Khaja Abdul Rahim
28. Shaikh Mahemud Shaikh Haidar
29. Imankhan Rahimkhan
30. Ramu Karansingh
31. Shankar Anantrao
32. Mhebuballi Sadikhalli
33. Yadgir Lalayya
34. Shankar Babarao Pawade
35. Mahadu Kerba Lokhande
36. Bhivaji Mujanji
37. Namdeo Shripati
38. Pasha Mainoddin
39. Ashok Laxman Aatawale
40. Ratnakar Nagnathrao Uttarwar

41. Gangadhar Naganna Hippargekar
42. Baburao Gangadhar Hanwate
43. Gulam Dastagir
44. Anant Bhagwat Jagalpure
45. Safi Jabbar
46. Waman Sindhu Bhaure
47. Hari Bhujanga Gajbhare
48. Ganpat Jalba Bhure
49. Vishwanath Narhari Aatawale
50. Kashinath Jalabaji Godbole
51. Kishan Ramchandra Bhosle
52. Namdeo Chandu Done
53. Arjun Sambhaji Gaware
54. Dnyanoba Bhujanga Aatawale
55. Hushen Khan Rahim Khan
56. Milind Narayan Aatawale
57. Vijay Nathu Chaure
58. Datta Sopan Bhorge
59. Gangaram Vithal
60. Mahamad Hamid Mahamad Khaja
61. Sayed Babu Sayed Ahemed
62. Sattaji Maroti
63. Anant Narhari Aatawale

64. Vyankati Hari

65. Hushen Alli Sabet Alli

All are Major, Occu. Service,
R/o. Nanded. C/o. Shri. P.B. Joshi,
Near Old Water Tank, Nanded.

...Respondents.

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Advocate for Petitioners : Shri M.D.Narwadkar
h/f Shri M.V.Deshpande

Advocate for Respondent 1 : Shri Parag Shahane
h/f Shri P.L.Shahane

Respondents 2, 10, 23, 26, 29 & 30 : Abated.

Respondents 3 to 9, 11, 12 to 21, 22, 24, 25, 27, 28,
31 to 34, 37 to 54, 55 to 65: Served

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CORAM : RAVINDRA V. GHUGE, J.
Dated: November 17, 2016

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ORAL JUDGMENT :-

1. The petitioner / municipal Council is aggrieved by the judgment of the Industrial Court dated 19.11.1996, by which, Complaint (ULP) No.278 of 1994 (Old No. 75 of 1990) was partly allowed and the petitioner was directed to calculate the amount of over time allowance / compensation, which may be due and payable to the respondent / employees, whose names were mentioned in Schedule "A" and make the payment on the basis of the actual days on which the employees had worked on holidays and for extra time.

2. This Court had admitted this petition on 12.6.1998. By order dated 7.12.2000, this Court recorded the statement of the petitioner that the petitioner would comply with the impugned order of the Industrial Court within three weeks and therefore, the Contempt proceedings under Section 48(1) of the the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (“the said Act ”) initiated by the respondent / employees were stayed for three weeks.

3. The petitioner / Municipal Council has subsequently become the Nanded Waghala City Municipal Corporation. Considering the directions of this Court dated 7.12.2000, I do not find it appropriate to cause any interference in this matter after the passage of 16 years. Similarly, I do not find any reason to interfere with the impugned judgment in the light of the observations of the Industrial Court in paragraph No.9 of the order which reads as under:-

“9. Coming to the question of granting monetary relief the employees have filed their statements of claim along with the complaint. These claims have neither been substantiated by documentary proof about actual working by the employees on either side, since the Council refused to produce log books showing the actual working hours of the employees since 1983. Further the employees have not shown at what rate to

overtime has been claimed and for how many hours in the month. Therefore, the proper course open to this Court is to issue direction to the respondent No.2 to calculate over time allowance and the amount of compensation due to the employees working on national holidays etc. as per the circulars issued by the State Government from time to time and at prevailing rates applicable from time to time to the employees working in the local body.”

4. Considering the above, this petition is disposed off. Rule is discharged.

5. Needless to state, if the statement recorded by this Court on 7.12.2000 in terms of the order of the Industrial Court, has not been complied with, the same shall be complied with within 12 weeks from today and the petitioner shall pay interest at the rate of 3% per annum on the amounts payable, if any, w.e.f. January 2001 till actually paid.

(RAVINDRA V. GHUGE, J.)

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