

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.2308 OF 2016

Bharat S/o Baburao Jadhav,
Age-43 years, Occu-Service,
R/o at Post - Darphal,
Tq. and Dist.Osmanabad

-- PETITIONER

VERSUS

1. Mukhya Karyakari Adhikari
Osmanabad Zilla Dekhrehk
Sahakari Sanstha Maryadit,
Shahar Police Station Samor,
Osmanabad,
2. Chief General Manager,
Rashtriya Krishi Aani Gramin
Vikas Bank (NABARD),
Shivaji Nagar, Pune,
3. Maharashtra Shasan Dwara-
Sachiv, Sahakar Khate,
Mantralaya, Mumbai-32,
4. Chairman,
Vividh Karyakari Sahakari
Society Ltd., Darphal,
Tq. and Dist-Osmanabad

-- RESPONDENTS

WITH
WRIT PETITION NO.2309 OF 2016

Jitendra S/o Shivaji Randive,
Age-43 years, Occu-Service,
R/o at Post - Sarola (Bru.)
Tq. and Dist.Osmanabad

-- PETITIONER

VERSUS

1. Mukhya Karyakari Adhikari
Osmanabad Zilla Dekhrehk

Sahakari Sanstha Maryadit,
Shahar Police Station Samor,
Osmanabad,

2. Chief General Manager,
Rashtriya Krishi Aani Gramin
Vikas Bank (NABARD),
Shivaji Nagar, Pune,
3. Maharashtra Shasan Dwara-
Sachiv, Sahakar Khate,
Mantralaya, Mumbai-32,
4. Chairman,
Vividh Karyakari Sahakari
Society Ltd., Takli (Dhoki)
Tq. and Dist-Osmanabad

-- RESPONDENTS

WITH
WRIT PETITION NO.2310 OF 2016

Sanjot S/o Hanmant Raut,
Age-30 years, Occu-Service,
R/o Khadagagalli, Masjitijawal,
At Post : Osmanabad,
Tq. and Dist.Osmanabad

-- PETITIONER

VERSUS

1. Mukhya Karyakari Adhikari
Osmanabad Zilla Dekhrehk
Sahakari Sanstha Maryadit,
Shahar Police Station Samor,
Osmanabad,
2. Chief General Manager,
Rashtriya Krishi Aani Gramin
Vikas Bank (NABARD),
Shivaji Nagar, Pune,
3. Maharashtra Shasan Dwara-
Sachiv, Sahakar Khate,
Mantralaya, Mumbai-32,

4. Chairman,
Vividh Karyakari Sahakari
Society Ltd., Gavsund,
Tq. and Dist-Osmanabad -- RESPONDENTS

WITH
WRIT PETITION NO.2311 OF 2016

Bhagyashree Basvantappa Yenegure,
Age-41 years, Occu-Service,
R/o at Post : Jevali, Tq.Lohara,
Dist.Osmanabad -- PETITIONER

VERSUS

1. Mukhya Karyakari Adhikari
Osmanabad Zilla Dekhrehk
Sahakari Sanstha Maryadit,
Shahar Police Station Samor,
Osmanabad,
2. Chief General Manager,
Rashtriya Krishi Aani Gramin
Vikas Bank (NABARD),
Shivaji Nagar, Pune,
3. Maharashtra Shasan Dwara-
Sachiv, Sahakar Khate,
Mantralaya, Mumbai-32,
4. Chairman,
Vividh Karyakari Sahakari
Society Ltd., Jewali,
Tq.Lohara and Dist-Osmanabad -- RESPONDENTS

Mr.V.D.Salunke, Advocate for the petitioners.
Mr.H.T.Gaikwad, Advocate for respondent No.1.
Respondent Nos. 2 and 4 served.
Mr.S.B.Joshi, AGP for respondent No.3.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 17/10/2016

PER COURT :

1. I have heard the learned Advocates for the respective sides. The only issued raised in these petitions by the petitioners is that despite their ULP complaints having been allowed by the Industrial Court, Latur vide the impugned judgments, their pay scale has been fixed from the date of the complaints and not from the dates of their joining.

2. Though the learned Advocates for the respective sides have canvassed several issues, I am not required to advert to their submissions in their entirety considering the fact that, this court by its judgment dated 06/03/2013 in Writ Petition Nos. 2500/2012, 2501/2012, 2502/2012, 2514/2012, 2515/2012, 2516/2012 in the matter of the same respondents and identically placed employees, has upheld the claims of the employees for pay scale from the dates of their joining.

3. Mr.Gaikwad, however, strenuously submits that a distinguishing feature in these cases is that the Industrial Court has observed in the last paragraph of the impugned judgments that the learned Advocate for the complainants/employees has orally

conceded that their pay scales may be granted/fixed from the date of the order of the Industrial Court. Once such a concession is granted, the petitioners/employees cannot resile from their statement.

4. Mr.Salunke submits that the demand of these petitioners in their complaints is much different than the purported oral concession given by the learned advocate. Moreover, the respondents have not challenged the impugned judgments. The petitioners/complainants are before this court since they are aggrieved by the said concession and the order of the Industrial Court granting them a pay scale from the date of the order.

5. After considering the submissions of the learned Advocates, I have called for the papers in Writ Petition No.2502/2012 in the group of matters between the Chief Executive Officer, Osmanabad Zilla Dekhreh Sahkari Sanstha Maryadit, Osmanabad Vs. Vaijinath Aabasaheb Shinde and others. The judgment of the same Industrial Court, Latur in Complaint (ULP) No.26/2008 and connected complaints, dated 23/09/2011 indicates that the Industrial Court has granted the benefits of permanency and pay scale after one year from the date of joining (8 months to be exact).

6. The C.E.O. of Osmanabad Zilla Dekhreh Sahkari Sanstha Maryadit, Osmanabad approached this Court in Writ Petition Nos. 2500/2012, 2501/2012, 2502/2012, 2514/2012, 2515/2012, 2516/2012. By the judgment of this Court running into 32 pages dated 06/03/2013, this Court has observed in paragraph No.16 and 17 as under :-

*“16. Therefore, it follows from the authoritative pronouncement of the Supreme Court in case of **Casteribe Rajya P.Karmchari Sanghatana** (supra) that power of Industrial and Labour Court u/s 30 of the Act did not call for adjudication or consideration before the Constitution Bench in the case of Umadevi (supra) and does not denude the Industrial or Labour Court of their statutory power under Section 30 r/w Section 32 of the said Act to order permanency of workers, who have been victims of unfair labour practice on part of employer under Item 6 of Schedule IV of the Act.*

17. For the aforesaid reasons, the view taken by the Industrial Court is in consonance with the material placed on record and after appreciation of the entire evidence. Therefore, the said view is a reasonable and possible view. Once this Court comes to the conclusion that the view taken by the Industrial Court is a reasonable possible view, even though another view is possible, that by itself is not a ground to cause interference in extraordinary jurisdiction of this Court.

Therefore, for the reasons aforesaid, the impugned judgments and orders passed by the Industrial Court deserve

no interference. Writ petitions are devoid of any merits and stand rejected.”

7. Learned Advocate for the petitioners/employees in these petitions had appeared for identically placed employees in the said petitions which were decided by this Court on 06/03/2013.

8. Considering the fact that the petitioners in these matters are identically placed with the employees in the earlier group and the respondents in these cases are the identical parties in the said group of matters, coupled with the fact that no distinguishing facts with regard to the services of these petitioners have been pointed out, I am not convinced that a different view could be taken in these matters. The issue involved has already been decided and settled in this Court by the said judgment dated 06/03/2013.

9. Mr.Gaikwad then submits that in a short order dated 12/02/2015 delivered by the learned Division Bench of this Court in WP No.495/2014 would indicate that the benefits of the pay scale have been given from the date of the order. I find that the petitioners/workmen in those cases had not approached the Industrial Court seeking declaration of ULP for not according benefits

and alleging violation of Item 6 and 9 of Schedule IV. A declaration of unfair labour practices was sought against the establishment under Item 6 and 9 of Schedule IV. The learned Single Judge concluded that failure to pay salary as per fixed pay scale is a ULP and therefore when permanency was to be granted after completion of one year, incidental and consequential benefits thereto would be available to the employees from the date of permanency and therefore non payment of such pay scale would amount to a ULP.

10. Learned Advocates for the respective sides submit that they have no information as to whether the C.E.O. Osmanabad Zilla Dekhreh Sahakari Sanstha Maryadit has challenged the judgment of this Court dated 06/03/2013 before the Hon'ble Apex Court. They further submit that they have not come across of any orders from the Hon'ble Apex Court with regard to the said judgment dated 06/03/2013.

11. In the light of the above, since the facts emerging in the petitions decided by this Court on 06/03/2013 are identical to the facts emerging in these petitions, I am unable to take a different view in the matter.

12. In the light of the above, these petitions are partly allowed. The directions of the Industrial Court in clause 4 of the order would stand modified with the following directions:-

“Respondent No.1 is directed to fix the pay of the complainants for the post of Group Secretary in the pay scale of Rs.4000-6000 with effect from the completion of one year in service by these petitioners and benefits consequential thereto as are provided by the service conditions shall be extended to such complainants.”

(RAVINDRA V. GHUGE, J.)