

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4313 OF 2001

- 1 Savaliram s/o Sahebrao Tejinkar,
Age : 41 years, Occupation : Service,
R/o Brahmagavan, Post Lohgaon,
Tal.Paithan, District Aurangabad.
- 2 Bhausahab s/o Dashrath Tejinkar,
Age : 42 years, Occupation : Service,
R/o Brahmagavan, Post Lohgaon,
Tal.Paithan, District Aurangabad.
- 3 Ankush s/o Mohan Jadhav,
Age : 37 years, Occupation : Service,
R/o Mavazgaon, Post Lohgaon,
Tal.Paithan, District Aurangabad.

...PETITIONERS

-VERSUS-

- 1 The State of Maharashtra.
(Copy to be served with the
Government Pleader, High Court of
Judicature of Bombay, Bench
at Aurangabad).
- 2 The Executive Engineer,
Irrigation Division, Aurangabad.
Sinchan Bhavan Complex,
Aurangabad.
- 3 The Superintending Engineer,
Aurangabad Irrigation Circle,
Behind Old High Court Building,
Aurangabad.

...RESPONDENTS

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Advocate for Petitioners : Shri R.S.Deshmukh.

AGP for Respondents: Shri P.N.Kutti.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 25th October, 2016

Oral Judgment :

1 The Petitioners are aggrieved by the judgment and order dated 26.02.2001 delivered by the Labour Court in Complaint (ULP) No.158/1996 and the judgment dated 11.09.2001 delivered by the Industrial Court, Aurangabad in Revision (ULP) No.22/2001.

2 I have heard the learned Advocates for the respective sides for quite sometime.

3 It appears from the record that the employees in Writ Petition Nos.4667/2001, 4668/2001 and 4768/2001, who were identically situated with the Petitioners herein, have been granted reliefs by the lower Courts as well as by this Court and in the light of the Government Resolutions passed from time to time, they have been regularized in employment.

4 The Petitioners herein unfortunately are said to have failed in getting interim order from this Court. Though they were continued in

employment till 12.10.2001, merely because of the pendency of this petition, all of them were terminated at 03:00 pm on 12.10.2001. I find that as this petition was filed on 28.09.2001 and was heard on 23.10.2001, the Respondent/ Department has terminated their services as noted above.

5 There is no dispute that barring the fact that the Petitioners in the other three petitions mentioned above were granted interim protection by this Court, there is no distinction in the nature of duties and service conditions vis-a-vis the Petitioners in this petition.

6 The learned Advocate for the Petitioners, therefore, strenuously submits that if the directions are issued to the Respondents to consider the cases of these Petitioners on parity with the employees in the other three disposed of petitions mentioned above and if the benefits are extended to them as per the prevailing Government Resolutions and especially the one dated 30.09.2010, these Petitioners could be considered for service benefits and employment by the Respondents. There is no dispute that these Petitioners have been working from 1998 till they had been hurriedly terminated on 12.10.2001.

7 This Court (Coram : S.P.Davare, J.) had observed in

paragraph 11 of the order dated 15.07.2009 in Civil Application No.7011/2009 as under :-

"11. In view of the facts of the matter and on the afore said background and also considering the contents of the present application, since the applicants herein are almost situated in the same position in parity with the petitioners in the afore said three Writ Petitions in respect of their services, except the fact that the said petitioners in those three Writ Petitions had interim relief in their favour and were continued in their respective services; but the applicants in the present Writ Petition had no interim relief in their favour and, therefore, they were not continued in their services, it is for the parties in the present petition to explore possibility of filing consent terms as filed in above referred three petitions and it is the prerogative of respondents to consider the said aspects and to take positive steps adopting sympathetic approach in the said direction and respondents may take appropriate suitable steps, if any, in Writ Petition No.4313 of 2001, accordingly, at the earliest, preferably within the period of three months, in accordance with law."

8 The Petitioners contend that they are willing to give up their entire back wages from 12.10.2001 till the date of their reinstatement on the condition that they are granted continuity in service and are considered on parity with the other similarly situated employees who are the Petitioners in the above mentioned three disposed of petitions.

9 The learned AGP submits that the statement on behalf of the Respondents/ Department cannot be made, though under the directions of

this Court, the Respondents would consider the cases of the Petitioners on parity and in the light of the Government Resolutions that are presently applicable, keeping in view that the Petitioners would not be claiming the back wages for the period during which they have been out of employment. This aspect has also been covered in paragraph 11 of the order dated 15.07.2009 reproduced above.

10 Considering the above and the observations of this Court in paragraph 11 of the order dated 15.07.2009, this Writ Petition is disposed of by directing the Respondents to consider the cases of these Petitioners on parity with similarly situated employees who have succeeded before this Court in the above mentioned three petitions. It is expected that the Respondents/ Department shall take a decision with regard to these Petitioners as expeditiously as possible and preferably within a period of SIXTEEN (16) WEEKS from today.

11 Rule is discharged.