

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10808 OF 2014

Sopan Dadaba Misal,
Age-60 years, Occu-Retired,
R/o Kolhar (Kolhubaiche)
Taluka Pathardi, Dist.Ahmednagar

PETITIONER

VERSUS

Ahmednagar Municipal Corporation,
Ahmednagar through its Commissioner

RESPONDENT

Mr.P.V.Barde, Advocate for the petitioner.
Mr.V.S.Bedre, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 29/03/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioner is aggrieved by the judgment and order dated 10/01/2014 delivered by the Industrial Court, Ahmednagar, by which Complaint (ULP) No.63/2012 filed by him has been dismissed.
3. I have heard the learned Advocates for quite some time. Considering the issue involved in the matter, I am not required to advert to their entire contentions.

4. There is no dispute as regards the tenure of employment of the petitioner. By a Government Resolution dated 20/07/2001, the State Government has introduced the "Assured Career Progress Scheme". Certain conditions which are required to be fulfilled for being eligible for the Scheme are set out in the GR dated 20/07/2001. One of the essential conditions is that the employee must have completed 12 years of continued service. So also, the other two conditions are with regard to an employee belonging to a particular category and having acquired the MSCIT qualification.

5. By the GR dated 02/09/2003, the State Government has introduced a condition by which an in-service employee who has completed 50 years of age would be exempted from being MSCIT qualified. In effect, the earlier age criteria of 55 years so as to exempt an employee has been altered and by the GR dated 02/09/2003, the condition of age has been lowered to 50 years. There is no dispute that the petitioner has not acquired MSCIT qualification and has crossed 50 years of age.

6. The Industrial Court, while considering Complaint (ULP) No. 63/2012, has concluded that the petitioner has put forth a belated claim and hence the complaint deserves to be rejected. It is apparent that though the Industrial Court took cognizance of the date of birth of

the petitioner which is 07/06/1954, it concluded that the benefits of the scheme were available after he had put in 12 years of service and since he had made a claim belatedly, the complaint was not tenable. The Industrial Court also concluded that since the petitioner was not MSCIT qualified, there was no merit in the complaint.

7. Considering the submissions of the learned Advocates and the Government Resolutions applicable, it is quite evident that the Industrial Court has misdirected itself. Even if the petitioner had put forth several prayers in his complaint, it was for the Industrial Court to scrutinize his claim in the light of the Government Resolutions and the conditions set out therein.

8. In my view, the benefits of the scheme were available to an employee immediately after completing 12 consecutive years of service provided his confidential report did not reflect any stigma and provided he was MSCIT qualified. The MSCIT qualification appears to be the salient condition in the said scheme. The GR dated 02/09/2003, having lowered the age limit to 50 years of age for exemption from MSCIT, naturally entitled the petitioner to claim the benefit of the scheme after completing 50 years of age in view of the fact that he was not MSCIT qualified. This aspect has been lost sight of by the Industrial Court.

9. The learned Division Bench of this Court in the matter of Bhaskar Amrut Ghodke Vs. The State of Maharashtra and Others, has delivered its judgment dated 28/02/2014 in WP No.5786/2013. The present respondent was respondent No.2 in the said petition. The learned Division Bench has concluded that a candidate who did not possess the qualification of MSCIT, would be exempted from the said condition after attaining the age of 50 years and hence would be entitled for the benefits of the scheme after being eligible for exemption.

10. In the light of the above, this petition is allowed. The impugned judgment and order dated 10/01/2014 is quashed and set aside. The petitioner would be entitled for the "Assured Career Progress Scheme" in the light of the GR dated 20/07/2001 and the GR dated 02/09/2003 from the date he has completed 50 years of age.

11. Rule is made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)