

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.754 OF 1997
(The State of Maharashtra and others Vs.Waman Dajiba Rathod and
others)
WITH
CIVIL APPLICATION NO.1682 OF 2003 AND
CIVIL APPLICATION NO.220 OF 2006
WITH
WRIT PETITION NO.739 OF 1997
(The State of Maharashtra and others Vs. Datta Arjun Dalve and
others)
WITH
CIVIL APPLICATION NO.11902 OF 2005

Mr.P.N.Kutti, AGP for the petitioner/State.
Mr.S.S.Pawar, Advocate for respondent No.1

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 21/10/2016

PER COURT :

1. In both these matters, the petitioners have challenged the common judgment dated 27/08/1996 delivered by the Industrial Court, Jalgaon in the respective complaints filed by the respondents/ employees.

2. Respondent No.2 in these matters, being the learned Member, Industrial Court, Jalna, stands deleted from the proceedings.

3. I have heard the submissions of the learned AGP for the

petitioners and Mr.Pawar on behalf of the respondents/employees.

4. When both these matters were admitted by this Court, interim relief in terms of prayer clause "D" was granted and as a consequence of which, the impugned judgment was stayed. However, it is informed by the learned AGP that both these respondents have been retrenched w.e.f. 01/03/2006. Since then they are not in employment, it is not known as to whether these respondents have challenged their retrenchment orders.

5. Both the respondents have been working on daily wages with the petitioners. There is no dispute that the Kalelkar Award is applicable to the establishment. It is provided in the Kalelkar Award that after a daily wagger completes 5 years of continuous service, he is taken on Converted Regular Temporary Establishment (CRTE). Thereafter, after working for 5 years, he is taken on the regular establishment.

6. The Industrial Court, while deciding the complaints, has arrived at a conclusion on facts that these respondents had worked continuously for 5 years. The extracts of the nominal muster rolls were produced by the petitioners before the Industrial Court at

Exh.C-48 and based on the same, the Industrial Court has concluded in paragraph No.10 of the impugned judgment that these respondents have worked for 5 years. Consequentially, considering the provisions of the Kalelkar Award / Settlement, the Industrial Court, in my view, has rightly directed the authorities to take these respondents on CRTE and thereafter extend to them the benefits flowing from the Kalelkar Award.

7. It is inconsequential at this stage that the respondents have been retrenched from 01/03/2006 since their claims as per the Kalelkar settlement are to be considered from the date when they have completed 5 years in continuous service with the petitioners.

8. Mr.Pawar submits that similar matters were earlier dismissed by this Court in WP No.738/1997 and 755/1997 involving the colleague employees of these petitioners namely Anil Virbhadra Sakharkar and Bhagoji Kachru Pundge by judgment dated 03/04/2009. Subsequently, these matters were settled in Lokadalat.

9. In the light of the above, both these petitions are devoid of merit and therefore stand dismissed. Needless to state, these respondents would be entitled for the benefits under the Kalelkar

Settlement till the date of their retrenchment.

10. Rule is discharged.

11. All pending civil applications do not survive and stand disposed of.

(RAVINDRA V. GHUGE, J.)