

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 5324 OF 2009

AKHIL MARATHWADA ZILLA PARISHAD KAMGAR UNION THROUGH ITS PRESIDENT  
H.S.SONWANE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Avishkar S. Shelke.

AGP for Respondent Nos.1 to 3 : Mr. A. P. Basarkar.  
Advocate for Respondent No.4 : Mrs. Geeta Deshpande.

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CORAM : S. V. GANGAPURWALA &  
A. M. BADAR, JJ.

DATE : 3<sup>rd</sup> FEBRUARY, 2016.

**PER COURT:**

1] Mr. Shelke, learned counsel for the petitioner submits that the petitioner is a union representing the cause of 37 persons enlisted at Annexure A to this petition. According to learned counsel, out of these 37 persons, 31 persons have been granted benefit by the Industrial Court directing the respondent Zilla Parishad to regularize their services and as such they are entitled to the benefit of Kalelkear Award and Bhole Commission. The Zilla Parishad had forwarded the proposal to the Government in respect of many employees including the petitioners. The said proposal was forwarded on 10th August, 2005.

2] Learned Counsel for petitioner submits that the Government rejected the said proposal vide communication dated 29.3.2008. The learned counsel submits that all the petitioners are working with the Zilla

Parishad under the Water supply Scheme since 1989/1991, continuously without any interruption. In view of the said fact, they are entitled to the benefit of the Kalelkar Award and the Government Resolution dated 10th July, 1974. The Government, on erroneous premise has rejected the same. The learned counsel relies on the judgment of the Division Bench in W.P. No. 2883 of 1992 dated 10.1.2005.

3] Mrs. Deshpande, learned counsel for the Zilla Parishad, does not dispute the case put forth by the petitioners and submits that these petitioners are working in the Water Supply Scheme of the Zilla Parishad since 1989/1991. Considering the said aspect, the Zilla Parishad had forwarded the proposal to the Government bringing them on CRTE. However, as the Government has rejected the said proposal, respondent Zilla Parishad cannot extend the said benefit to the petitioners as it is only after sanction is received from the Government, benefit can be accorded to the petitioners. Learned Counsel submits that out of 37 petitioners, 10 petitioners have already retired or have left the service, The list of these 10 persons is placed on record by the learned counsel.

4] Mr. Shelke does not dispute the said list.

5] Mr. Basarkar learned AGP submits that as a matter of course, these persons cannot be brought on CRTE. Petitioners had filed proceedings before the Industrial Court against the Zilla Parishad. The State was not party in the said proceedings. As the State was not party to the said proceedings, the State is not bound by the judgment of the Industrial Court.

Learned AGP further contends that it is for the Zilla Parishad to maintain the employees and Government had never accepted the financial burden of these employees. If now, the benefit of Government Resolution dated 10.7.1974 is extended to the employees of the Zilla Parishad, and more particularly, to the daily rated workers, then it is the responsibility of the Zilla Parishad. The Zilla Parishad is required to meet the expenses from the Special District Operation and Maintenance Fund, created at the Zilla Parishad level.

6] We have considered the submissions of the learned counsel for the respective parties. The only issue before this Court in the present petition is, as to whether the benefit of the Government Resolution dated 10.7.1974 can be accorded to the petitioners. The factual matrix as is placed before this Court is not disputed by either of the parties. Petitioners are working since 1989/1991, continuously un-interrupted. The Government Resolution dated 10th July, 1974 is self explanatory. Coupled with the said Government Resolution, in respect of 21 petitioners, the Industrial Court has already passed an order directing the respondents to give the benefit of Kalelker Award and Bhole commission. A judicial order is passed in respect of 21 employees. In the light of that, the parties cannot shrug off their liabilities. Even the Industrial Court has observed that not bringing the petitioners on CRTE would tantamount to an Unfair Labour Practice. The said Government Resolution and the similar stand taken by the Government in the instant writ petition was the subject matter of scrutiny in W.P. No. 2883 of 1992 decided by this Court. This court, after considering the case put

forth by the State as well as the Zilla Parishad, had directed implementation of the Government Resolution dated 10th July, 1974. There is no reason for us to adopt a different course. The said judgment is exhaustive in nature, so also, the Government Resolution is self explanatory. Coupled with that, the orders of the Industrial Court also supports the case of the petitioners.

7] The present order would enure to the benefit of the petitioners before this Court. Though the proposal was submitted in respect of large number of workers, the Association has come before this Court representing the cause of 37 employees and out of those 37, 10 persons have either left the service or have retired. As such, the present order would enure to the benefit of 27 persons, a list of those 27 persons is placed on record and same is marked as "Annexure A-1" to this petition.

8] In the light of above, Rule is made absolute in terms of prayer clauses (C) and D), with reference to "Annexure A-1" only and not "Annexure A". There shall be no orders as to costs.

**[A.M. BADAR]**  
JUDGE

**[S.V. GANGAPURWALA]**  
JUDGE

grt/-