

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

CIVIL APPLICATION NO. 11167 OF 2016
IN RAST/19384/2016
WITH
REVIEW APPLICATION (STAMP) NO.19384 OF 2016
IN WP/3650/1997

ABDUL BAKSHUBHAI SHAIKH
VERSUS
THE SUPERINTENDENT ENGINEER, AHMEDNAGAR IRRIGATION CIRCLE
AND OTHERS

...
Advocate for Applicant : Shri Barde Parag Vijay.
AGP for Respondents / State : Shri PN.Kutti.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 07th September, 2016

Per Court:

1 I have heard Shri Barde, learned Advocate for the Applicant/
Review Petitioner and the learned AGP on behalf of the Non Applicants,
original Writ Petitioners.

2 A peculiar situation emerges from the record. By judgment
dated 16.07.2009 delivered in Writ Petition No.1509/1993 along with a
large group of petitions, this Court has included the Applicant's Writ
Petition No.3650/1997 as being a part of the group of petitions which
have been adjudicated upon. It is stated that the Applicant is unconnected

with the said group.

3 Shri Barde points out that the Applicant Abdul Bakshubhai Shaikh was the Respondent in Writ Petition No.3650/1997 which was with regard to Complaint (ULP) No.734/1995 which he had filed before the Industrial Court. The Advocate representing the Applicant was Shri D.R.Korde. In the judgment of this Court dated 16.07.2009, the appearance of the learned AGP for the State was shown and no appearance on behalf of the instant Applicant was shown.

4 Shri Barde submits that his writ petition was not before this Court in the group of matters inasmuch as the Applicant is neither a Mustering Assistant nor any employee working on the Employment Guarantee Scheme, as like the other employees who are covered by the judgment dated 16.07.2009. He submits that his writ petition number has been accidentally mentioned when the said petition was not before the Court on 16.07.2009 and his lawyer was also not present. He, therefore, submits that the judgment dated 16.07.2009, neither is applicable to his case nor would be of any consequence to him since he is a daily wage Majdoor and is not a Mustering Assistant who is to be considered for absorption as per seniority as per the said judgment.

5 Shri Barde has placed on record the screen-shot printout from the website of this Court which indicates that his Writ Petition No.3650/1997 filed by the Superintending Engineer, Ahmednagar Irrigation is pending final hearing. It was on account of these peculiar facts, that the Applicant realized that his petition was included in the judgment dated 16.07.2009 without the said petition being connected with the other group of petitions and without any hearing.

6 The printout placed on record by Shri Barde is marked as Exhibit X for identification.

7 Considering the peculiarity of facts emerging from this case, the Civil Application for condonation of delay of six years and 313 days is allowed and the Review Petition is taken up for hearing.

8 I have heard the learned Advocates on the Review Application, by which the Applicant prays that his petition may be restored, de-linked with the judgment dated 16.07.2009 and may be heard on it's own merits.

9 The learned AGP submits that the said petition was filed by the State and by interim order passed on 12.09.1997, the Applicant/

Employee was to be provided with the work as and when it was available. He, therefore, submits that considering the interim relief granted in favour of the original Petitioner preventing inclusion of the name of the Employee in the seniority list and also for consideration of permanency, if the petition is to be restored, it will have to be restored at the same stage at which it was included in the judgment dated 16.07.2009.

10 Considering the above and since it is apparent that Writ Petition No.3650/1997 was accidentally included in the judgment dated 16.07.2009, this Review Application is allowed. Writ Petition No.3650/1997 is restored to the file of this Court at the same stage at which it was included in the judgment dated 16.07.2009. Consequentially, interim relief dated 12.09.1997 shall continue to apply in this matter.

11 By the consent of the parties, Writ Petition No.3650/1997 is listed for final hearing on 22.09.2016.