

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9629 OF 2016

DHULE MUNICIPAL CORPORATION
VERSUS
SUNANDA RAGHUNATH LAHANE

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Advocate for Petitioner : Shri Shah Subodh P.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 01, 2016

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PER COURT :-

1. The petitioner is aggrieved by the judgment of the industrial Court dated 27.7.2015 by which Complaint (ULP) No.72 of 2013 has been partly allowed. The petitioner is directed to pay arrears of pay and allowances as per the V Pay Commission and VI Pay Commission's recommendations.

2. I have heard Shri Shah, learned Advocate on 26.9.2010 and again today. Contention is that there is no dispute about the payment of difference in pay scale as per the V Pay Commission's recommendations, though the same has not been still paid to the respondent.

3. In so far as recommendations of the VI Pay Commission are concerned, contention is that by the Government Resolution dated

10.8.2009, the benefits of the VI Pay Commission were to be paid only to those persons, who have been occupying sanctioned posts. It is stated that the respondent was not occupying a sanctioned post, though it is admitted that she has been confirmed in service, in the light of a direction of the Court.

4. I find that, the contentions of the petitioner before the Industrial Court have been considered by the Court in paragraph No.3. It was contended that the petitioner admits the liability to pay the V Pay Commission's pay scales. However, because of the weak financial condition, the petitioner is unable to make the said payments.

5. In the memo of the Writ Petition, the petitioner submits that the recommendations of the VI Pay Commission are not applicable to the respondent herein as she is not occupying a sanctioned post. It is, however, admitted that the arrears towards difference in salary have been paid to a few employees, who were in urgent need of finance. This statement in the petition itself will indicate that the petitioner has paid the difference of salary to some employees, who were facing financial difficulties.

6. I find from the impugned judgment that the respondent has produced a list Exhibit U-2, indicating that the petitioner had paid

arrears of the VI Pay Commission recommendations to about 13 employees. Thereafter, an administrative decision was taken on 1.7.2014 to defer the payment of such benefits to other employees because of weak financial condition. It was, however, decided to pay the said arrears after the end of the financial year 2014-15.

7. I also find that the petitioner had not produced anything on record before the Industrial Court to the extent of supporting its contention that only those employees, who were made permanent on sanctioned posts have been paid the difference of wages under the VI Pay Commission recommendations. The writ jurisdiction of this Court cannot be exercised for enabling a litigant to fill in lacuna in evidence recorded before the trial Court. It also cannot be ignored that the respondent has already superannuated on 30.11.2013 and is still litigating for her legal dues and retiral benefits.

8. The petitioner has relied upon a judgment of the Honourable Supreme Court in the matter of State of Punjab and others Vs. Amar Nath Goyal and others [(2005) 6 SCC 754]. Upon going through the facts of the case, it is apparent that the Honourable Apex Court was dealing with the cases of retired employees of the Government of Punjab and a few retired Judges of the High Court of Punjab and Haryana, as well as a retired Judge of this Court. So also, the issue was with regard to limiting the benefits to the employees, who retire

or die on/or after 1.4.1995, in view of the decisions taken by the State / Central Governments. The facts of the case since are distinguishable, the ratio laid down therein, would not be applicable to this case.

9. The writ petition is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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