

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

WRIT PETITION NO.11183 OF 2015

Arun s/o Baburao More
Age 56 years, Occ : Service as Clerk
R/o Khanapur, tq. Shevgaon
District Ahmednagar **PETITIONER**

VERSUS

- 1] The State of Maharashtra
Through its Secretary,
Revenue & Forest Department,
Mantralaya Mumbai-32.
- 2] The Deputy Director of Land Record,
Nashik Division, Nashik.
- 3] The Superintending Engineer
Ahmednagar Irrigation Circle
Ahmednagar.
- 4] The Executive Engineer
Minor Irrigation Circle,
Ahmednagar **RESPONDENTS**

WITH

WRIT PETITION NO.11185 OF 2015

Raosaheb s/o. Rambhau Bhalsing,
Age 65 years, Occ : Retired as
Surveyor from the Department of
Land Record, Karjat,
Taluka Karjat, District
Ahmednagar,
R/o At Post Walki,
Tq. & District Ahmednagar. **PETITIONER**

VERSUS

- 1] The State of Maharashtra
Through its Secretary,
Revenue & Forest Department,
Mantralaya Mumbai-32.
- 2] The Deputy Director of Land Record,
Nashik Division, Nashik.
- 3] The Superintending Engineer
Ahmednagar Irrigation Circle
Ahmednagar.
- 4] The Executive Engineer
Minor Irrigation Circle,
Ahmednagar

RESPONDENTS

**WITH
WRIT PETITION NO.11188 OF 2015**

Abasaheb s/o Tukaram Satpute
Age 61 years, Occ : Retired as
Jr. Clerk from the office of
Superintendent of Land Record
Parner, tq. Parner District
Ahmednagar,
R/o. At Post Khatgaon Takali
Tq. & District Ahmednagar

PETITIONER

VERSUS

- 1] The State of Maharashtra
Through its Secretary,
Revenue & Forest Department,
Mantralaya Mumbai-32.
- 2] The Deputy Director of Land Record,
Nashik Division, Nashik.
- 3] The Superintending Engineer
Ahmednagar Irrigation Circle
Ahmednagar.

4] The Executive Engineer
Minor Irrigation Circle,
Ahmednagar

RESPONDENTS

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Mr. Amol N. Kakade, Advocate for the
Petitioners in all Writ Petitions

Mr. S.B.Yawalkar, AGP for the Respondent No.
3 / State in all Writ Petitions

Mr. Shyam C. Arora, Advocate for the
respondent No.3.

Respondent Nos.2 and 4 served.

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**CORAM: S.S.SHINDE &
SANGITRAO S.PATIL, JJ.**

Reserved on : 04.04.2016

Pronounced on : 07.04.2016

JUDGMENT: [Per S.S.Shinde, J.]:

1] Heard.

2] Rule. Rule made returnable
forthwith, and heard with the consent of the
parties.

3] The petitioners were employed as
Muster Assistants in Irrigation Department of
the State of Maharashtra. The petitioners
filed separate complaints before the
Industrial Court, Ahmednagar, alleging the

commission of unfair labour practices covered by the Items 5, 6, 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as the 'Said Act of 1971']. The Industrial Court allowed the complaints filed by the petitioners and by the Judgment and Order dated 29.12.1994 directed the respondents to confer status and privileges of permanency and other consequential benefits from the date of complaint.

4] The learned counsel appearing for the petitioners submit that, one of the Mustering Assistants filed Writ Petition No.2946/1997 (Shri Ramchandra Kondiba Mahajan Vs. The State of Maharashtra & others) before the Bombay High Court at it's Principal Seat at Bombay. The Division Bench gave directions in the said Writ Petition to consider the past services for grant of

pension in view of the Judgment and Order passed by the Industrial Court. The same relief is being claimed by these petitioners in the present Writ Petitions. The learned counsel submit that, the Special Leave Petition filed, challenging the aforesaid Judgment passed in Writ Petition No.2946/1997 (Shri Ramchandra Kondiba Mahajan Vs. The State of Maharashtra & others) is also dismissed.

5] The learned Additional Government Pleader states that, the past service cannot be considered of the petitioners in view of the scheme framed by the Government and approved by the Apex Court vide Government Resolution dated 01.12.1995 and the subsequent Government Resolution of the year 1999. The learned Addl. G. P. further submits that, it is only after the mustering assistants are absorbed in Government service, they can be considered as Government

employees and benefits of Government service can be accorded to them. As these petitioners after absorption did not complete the period of qualifying service, they are not entitled for pensionary benefits.

6] It is not disputed that in these matters, the petitioners had approached the Industrial Court by filing complaint ULP. The said complaints are allowed and Industrial Court directed the present respondent/State to accord those complainants / petitioners herein status and privileges of permanency and consequential benefits from the date of filing of complaints. As the pensionary benefits are not being accorded, one of such complainants filed writ petitions bearing Writ Petition No. 2946 of 1997, Writ Petition No. 2236 of 1997 and Writ Petition No. 2246 of 1997. The Division Bench of this Court partly allowed the said petitions and passed the following order.

1. In view of the Judgment and Order dated 08th April, 1997 passed by the learned Industrial Court, Solapur, for the purpose of considering the grant of pensionary benefits, the Petitioners shall be treated as Permanent Employees with effect from 01st October, 1988 till the respective dates of superannuation.

2. In case of the Petitioners who were already superannuated, it will be open for them to make a representation to the concerned Authorities for grant of pensionary benefits.

3. If such representation is made, same shall be decided as expeditiously as possible and preferably within a period of four months from the date on which the representations are made.

4. We make it clear that, apart from issuing directions regarding the date of permanent employment of the respective Petitioners, we have not examined the case of the Petitioners as regards the eligibility of pensionary benefits.

5. Rule is made partly absolute on both terms with no order as to costs.

7] The Special Leave Petition filed against the said judgment and order is also

dismissed. In the light of that, we adopt the same course as adopted by this Court in the above said writ petitions and pass the following order.

1. In view of the Judgment and Order dated 29.12.1994 passed by the learned Industrial Court, Ahmednagar, for the purpose of considering the grant of pensionary benefits, the Petitioners shall be treated as Permanent Employees with effect from the date of their complaints i. e. from the date of filing of their respective ULP's till the respective dates of superannuation.

2. In case of the Petitioners who were already superannuated, it will be open for them to make a representation to the concerned Authorities for grant of pensionary benefits.

3. If such representation is made, same shall be decided as expeditiously as possible and preferably within a period of four months from the date on which the representations are made.

4. We make it clear that, apart from issuing directions regarding the date of permanent employment of the respective Petitioners, we have not examined the case of the Petitioners as regards the eligibility of pensionary benefits.

5. Rule is made partly absolute on above terms with no order as to costs.

Sd/-
[**SANGITRAO S.PATIL**]
JUDGE

Sd/-
[**S.S.SHINDE**]
JUDGE

DDC