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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION STAMP NO.33405 OF 2014
IN
WRIT PETITION NO.161 OF 2014

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| 1. The State of Maharashtra
Through the Deputy Director,
Vocational Education and Training
P. B. No.456, Nashik Road,
Nashik | APPLICANTS |
| 2. The Principal,
Government Industrial Training Institute
M.I.D.C. Post, Tilaknagar,
Taluka – Shrirampur,
District - Ahmednagar | |

VERSUS

Narsinha Lakshmanrao Pangudwle Age – 43 years, Occ – Service R/o Behind Maruti Mandir, Bhushannagar, Kedgaon, Ahmednagar	RESPONDENT
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Mr. A. P. Basarkar, AGP for applicants-State
Mr. Parag V. Barde, Advocate for respondent

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 26th AUGUST, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard learned advocates for the parties finally with consent.

2. Review of order dated 13th March, 2014 passed by this court in writ petition No.1621 of 2014 is sought.

3. It appears that the respondent-complainant had been a daily wager and complaint filed by him against his termination had been allowed, directing reinstatement with continuity in service, all through up to this court, pursuant to which the respondent has been provided with work on which he has been previously working i.e. of a daily wager. It is thereafter, the respondent-complainant, by filing Complaint (ULP) No.71 of 2011 in the Industrial Court, claimed permanency benefits, which had been granted and writ petition at the instance of present applicant has been decided considering that posts were available from a very long time. This position does not appear to be disputed.

4. In the grounds being now raised for review, it is contended that pursuant to policy of 2006 it would not be appropriate to absorb the respondent-complainant on a permanent post. It is further being submitted that this is a public employment and as such, employment to the same shall be within the parameters of the constitutional scheme, especially in compliance of Articles, 14, 16, 315, 320 and 335 of the Constitution of India and it

would not be a case that while the service of the respondent would be regularized, it would be in consonance with the scheme.

5. Learned advocate for the respondent-complainant relies on a judgment in the case of “*Maharashtra State Road Transport Corporation and Another V/s. Kasteribe Rajya P. Karmachari Sanghatana*” reported in *AIR 2009 SC (Supp) 2656*. He refers to head note “A” of said citation, which reads thus -

“A. Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act (1 of 1972), S.30, S.32, Sch.4, Item 6 – Unfair Labour Practice – Regularization and conferring permanency status on workers – Decision in 2006 AIR SCW 1991 – Cannot be held to have overridden powers of Industrial and Labour Courts in passing orders u/S. 30, once unfair labour practice is established – Thus direction of giving status, wages and all other benefits of permanency to workers affected by unfair labour practice – Not liable to interfered with.”

6. Learned advocate for the respondent, thus submits that while the respondent – complainant had been terminated from service, permanent posts were available and thereafter, Complaint (ULP) No.22 of 2004 filed by the respondent-complainant had been allowed by the Labour Court directing reinstatement with continuity of service. However, while doing so benefits of permanency in the meanwhile accrued by virtue of

said order, were not being given to the respondent-complainant and as such, a further proceedings Complaint (ULP) No.71 of 2011 for the same ensued before Industrial Court under Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practice Act, which came to be finally decided in writ petition No.1621 of 2014 dismissing the writ petition of present applicants. He further submits that quite a few similarly situated employees have received benefit of permanency. He submits that the policy decision of 2006 would not be able to withhold benefits which had already accrued to the respondent-complainant.

7. It is not disputed that the respondent-complainant is a class IV employee and that there are permanent posts available and further that quite a few similarly situated persons have received benefits of permanency. The ruling cited on behalf of the respondent-complainant observes that Industrial and Labour Courts would have power to order permanency to workers, who have been victims of unfair labour practice under Item 6 of Schedule IV of the MRTU and PULP Act, where posts on which they have been working exist and that the decision of the Supreme Court in the case of *“State of Karnataka and Others V/s Umadevi and Others”* reported in 2006 AIR SCW 1991 would not have

effect of overriding powers of Industrial court in passing order under section 30 of the MRTU and PULP Act once unfair labour practice under Item 6 Schedule 4 is established.

8. Learned AGP appearing for the applicants does not dispute that the order passed by the Industrial court is with reference to section 30 of the MRTU and PULP Act and hold the employer guilty of unfair labour practice under Item 6 of Schedule IV of the MRTU and PULP Act.

9. In the circumstances, it does not appear to be a case where a review of the order passed on 13th March, 2014 in writ petition No.1621 of 2014 would be entertained on the grounds pressed into service while hearing the review application.

10. Review application as such, stands dismissed. Rule stands discharged.

[SUNIL P. DESHMUKH, J.]

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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.12838 OF 2014
IN
REVIEW APPLICATION STAMP NO.33405 OF 2014
IN
WRIT PETITION NO.161 OF 2014

The State of Maharashtra and Another APPLICANTS

VERSUS

Narsinha Lakshmanrao Pangudwle RESPONDENT

.....
Mr. A. P. Basarkar, AGP for applicants-State
Mr. Parag V. Barde, Advocate for respondent
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 26th AUGUST, 2016

ORDER :

. For the reasons contained in civil application, the delay stands condoned and the application stands allowed in terms of prayer clause "B" and is disposed of.

[SUNIL P. DESHMUKH, J.]

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