

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5208 OF 2000

Maharashtra Motor Kamgar Union,
Aurangabad/Beed,
Through its Secretary,
Shri Shaikh Riyazuddin,
Age-41 years, Occu-Service,
R/o Beed

-- PETITIONER

VERSUS

1. Divisional Controller,
Maharashtra State Road Transport
Corporation, Beed,

2. Maharashtra State Road
Transport Corporation, Through
It's Chairman, Wahatuk Bhuvan,
Bombay Central, Bombay

-- RESPONDENTS

Mr.S.A.Kulkarni, Advocate for the petitioner.
Mr.D.S.Bagul, Advocate for respondent No.1.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 07/07/2017

ORAL JUDGMENT :

1. The petitioner/Union is aggrieved by the judgment of the Industrial Court dated 09/09/1999 by which Complaint (ULP) no.91/1993 has been dismissed.

2. I have considered the strenuous submissions of Mr.Kulkarni,

learned Advocate for the petitioner and Mr.Bagul, learned Advocate on behalf of the respondents. With their assistance, I have gone through the memo of the petition, the amended complaint and the judgment impugned.

3. Considering the view taken by the Hon'ble Division Bench of this Court (Coram :- Sunil P.Deshmukh and Ravindra V.Ghughe, JJ.) in Review application No.40/2016 in the matter of MSRTC Vs. Rajendra Arjun Dalvi and others by judgment dated 15/02/2017, this petition can be disposed of.

4. Upon considering the entire complaint and the analysis of the oral and documentary evidence emerging from the impugned judgment, the petitioner/Union has specifically put forth only two grievances in the complaint, rest been quite vague and ambiguous, which are as under :-

[a] The timescale employees were getting Rs.1,180/- as basic pay and these 64 workers at issue were getting Rs.980/- as basic pay. The difference in basic pay was Rs.100/- and the total difference including the allowances is said to be Rs.400/- per month.

[b] The employees involved in this petition were being paid their daily wage for 26 days in a month in comparison to the

regular workers who were being paid for 30 days in a month. The grievance is, therefore, with regard to a shortfall of pay for 4 days.

5. I quite see that though the complaint runs into 10 pages, the Union has not pin-pointedly pleaded those benefits to which they claim to be entitled to under Clause 49 of the settlement dated 28/05/1956 and which are purportedly not extended to them. It is only the above two issues that emerge from paragraph Nos.3B, 3C and 7 of the amended complaint.

6. In the judgment dated 15/02/2017, referred to above, the Division Bench has issued directions under paragraph No.8 which read thus :-

“8. Notwithstanding the fact that this Review Application is to be disposed of considering the above, we find that the following observations would assist the parties in bringing an end to this litigation :

[A] The respondents/original petitioners shall move a representation to the MSRTC within a period of four (4) weeks from today indicating any shortfall in the payment made to them after completing 180 days and prior to being granted permanency with reference to Clause 2 under (II-A) reproduced above.

[B] After receiving such representation, the MSRTC shall consider

the claims and shall pass an appropriate order within six (6) weeks, indicating to the employees as to whether Clause 2 has been complied with. In the event of any shortfall, MSRTC shall make the residual payment.

[C] After the MSRTC decides the representation and communicates its decision to the employees, in the event, their grievance based on disputed questions is still not redressed, they would be at liberty to resort to an appropriate adjudicatory remedy, as may be available in law, with regard to the disputed questions.”

7. I find from the impugned judgment that the petitioner had not specifically led evidence with regard to the difference in the basic pay and allowances and the aspect of pay for 26 days and 30 days. That issue does not find place in the impugned judgment. The complaint could therefore be remitted to the Industrial Court for dealing with the said two issues. However, Mr.Kulkarni submits that most of the employees involved must be in their late 50's or may also have superannuated and it would be quite harsh to direct them to approach the Industrial Court in the complaint which was lodged 24 years ago. He, therefore, suggested that this Court may consider the view taken in paragraph No.8 of judgment dated 15/02/2017 reproduced above and issue similar directions. Mr.Bagul clarifies that the MSRTC would now look into only two aspects as are

specifically pleaded in the complaint regarding difference of pay and the days for which payment has been made as is stated hereinabove.

8. Considering the above, this petition is disposed of and the MSRTC is called upon to revisit its records for deciding the following two aspects :-

[a] Whether there was any difference in pay in between the petitioner's employees and the regular employees for the period as is averred in paragraph No.3(b) of the complaint.

[b] Whether the employees at issue were entitled to wages for 30 days in a month as is alleged in paragraph No.3(c) of the complaint.

9. The MSRTC shall conduct the said scrutiny within a period of 4 (four) months from today and thereafter communicate its decision to the petitioner/Union within 1 (one) month, preferably by the end of December 2017. If there is any shortfall and the MSRTC concludes that the same has to be paid to those workmen who are so identified, it shall take the efforts to call upon such workmen to collect their legal dues expeditiously.

10. Needless to state, the scrutiny to be conducted by the MSRTC will depend upon the applicability of a particular settlement and the

law laid down by the Hon'ble Apex Court in MSRTC Vs. Premlal
[2007(9) SCC 141].

11. Rule is discharged.

(Ravindra V.Ghuge, J.)