

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1155 OF 2003

Murlidhar Daulat Bharaskar,
Age 40 years, Occ. Service
R/o Khanapur, Post. Ghotan,
Tq. Shevgaon, Dist. Ahmednagar. ..Petitioner

Versus

1. Zilla Parishad, Ahmednagar
(Through its Chief Ex.Officer).

2. Executive Engineer,
Zilla Parishad, Minor Irrigation
South Division, Ahmednagar. ..Respondents

WITH
WRIT PETITION NO. 1388 OF 2004

1. Zilla Parishad, Ahmednagar
through its Chief Executive Officer

2. Executive Engineer,
Zilla Parishad, Minor Irrigation
(North) Ahmednagar. ..Petitioners

Versus

Dattu Eknath Arale
Age 51 years, Occ. Service
R/o New Gaothan, Dahiphal,
Post Tajnapur, Tq. Shevgaon,
District Ahmednagar. ..Respondent

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Advocates for Petitioners : Smt. S.L.Awchar h/f Smt. Renuka Ghule -
Palve and Shri P.L.Shahane
Advocate for Zilla Parishad : Shri S.T.Shelke
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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 30, 2017
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ORAL JUDGMENT :-

1. In the first petition, the petitioner is aggrieved by the judgment of the Industrial Court dated 5.2.2003, by which, his Complaint (ULP) No.276 of 1992 has been dismissed.

2. In the second petition, the same Zilla Parishad, which is respondent in the first petition is aggrieved by the judgment of the same Industrial Court dated 31.10.2003, by which, Complaint (ULP) No.381 of 1992, filed by the workman has been allowed.

3. By order dated 1.3.2004, this Court admitted the second petition and stayed the impugned judgment. However, the said employee Dattatray Eknath Arale has worked with the petitioner and after attaining the age of superannuation at 60 years, has retired from his service on 31.5.2011.

4. For the sake of clarity, the employees in these two petitions shall be referred to as the “workmen” and the establishment / Zilla Parishad, Ahmednagar shall be referred to as the “establishment”.

5. I have considered the strenuous submissions of Shri Shelke appearing on behalf of the establishment and Shri Shahane with Smt. Palve, learned Advocates on behalf of the workmen.

6. These workmen were earlier appointed by the Zilla Parishad / establishment and were performing their works as Pump Operators under a scheme with Maharashtra Jeevan Pradhikaran. Thereafter, the Zilla Parishad has taken over their services and they have continued in employment. The record shows that their appointments were at the hands of Zilla Parishad and their services were utilized in such areas which fell within the jurisdiction of the Zilla Parishad.

7. Though the law is well settled on this count that the Kalelkar settlement is applicable to such workmen, the same Industrial Court in the first petition dismissed the complaint of Murlidhar Daulat Bharaskar and subsequently, allowed the complaint filed by Dattu Eknath Arale.

8. Considering the settled law with regard to the scheme under the Kalelkar Award by which a daily wager after putting in five years of employment, is taken on Converted Regular Temporary Establishment (CRT) and five years thereafter, is taken on the regular establishment, I find that the first petition calls for interference.

9. The Industrial Court in the second petition has directed the establishment to forward the proposal to the appropriate authorities of the Government of Maharashtra for considering the case of Dattu

Eknath for benefits as per the Kalelkar Award. The law has been correctly followed by the Industrial Court in the said judgment dated 31.10.2003. However, in the first petition, the Industrial Court has failed to consider the claim of Murlidhar, while dismissing his complaint on 5.2.2003.

10. In a group of Writ Petitions between the same Zilla Parishad, Ahmednagar and its several similarly situated workmen, this Court by judgment dated 20.10.2016, has concluded that these workmen were entitled to the benefits of the Kalelkar Award and directions were issued to the Zilla Parishad.

11. In the light of the above, the first petition is allowed and the judgment of the Industrial Court dated 5.2.2003 is quashed and set aside. Complaint (ULP) No.376 of 1992 stands partly allowed. The second petition is, therefore, dismissed and Rule is discharged.

12. For the sake of clarity, the directions issued by this Court to the said Zilla Parishad in its judgment dated 20.10.2016 shall be made applicable to the said Zilla Parishad in the following terms:-

" The Petitioner/ Establishment shall consider the individual cases of these Respondents strictly within the ambit of the Kalelkar Settlement and shall make benefits

available to them including the employees, who have retired. Further, the Petitioner shall calculate monetary benefits that would be available to these Respondents/ Employees on the basis of the Kalelkar Settlement and shall extend the said benefits by making necessary payments to the Respondents within a period of SIX MONTHS from today."

(RAVINDRA V. GHUGE, J.)

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