

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

Writ Petition No. 01801 of 1998

District : Aurangabad

1. The State of Maharashtra,
through the Senior Geologist,
Groundwater Survey and
Development Agency,
Beed (Shivajinagar, Beed).
 2. Dy. Director, Geologist,
Groundwater Survey and
Development Agency,
Aurangabad.
 3. The Director, Geologist,
Groundwater Survey and
Development Agency,
Maharashtra State,
Pune - 37.
- .. Petitioners
(Original respondents)

versus

Namdeo Rambhau Kasale,
Age : Major,
Occupation : Service,
R/o. Padegaon,
Post Malapuri,
Taluka & District Beed.

.. Respondent
(Original complainant)

.....

*Mr. S.N. Kendre, Asst. Government Pleader, for
the petitioners.*

*Mr. P.D. Suryawanshi & Mr. S.S. Deogude,
Advocates, for the respondent (Absent).*

.....

CORAM : RAVINDRA V. GHUGE, J.

DATE : 02ND MARCH 2017

ORAL JUDGMENT :

01. The petitioner - establishment is aggrieved by the judgment of the Industrial Court, Aurangabad, dated 15.11.1995 by which, the claim of the respondent seeking permanency in Complaint (ULP) No. 111/1994, has been rejected. He has been given the liberty to approach the Government and the petitioner is directed to move the Government to get the post sanctioned for absorption of the respondent.

02. None appears for the respondent. I have heard the learned Asst. Government Pleader for the petitioners, at length, who has strenuously criticized the impugned judgment. He has also taken me through the grounds of challenge.

03. It cannot be ignored that the respondent was terminated on 21.06.1995 and he was reinstated under the interim orders of the Labour Court in Complaint (ULP) No. 078/1995. Eventually, the Complaint is partly allowed by the judgment of the Labour Court dated 14.12.2007 and the respondent is granted reinstatement in service without back wages. Since then, he is continued in employment.

04. The Industrial Court in the impugned judgment has ordered as under :-

" Both complaints stand dismissed.

Despite the dismissal of complaints, it is in the fitness of things to direct the Respondents to move the government, to get posts sanctioned where the Complainants are serving and to absorb them on these posts giving permanency. "

05. The issue raised by the petitioners is no longer *res integra*. This Court in the matter of ***Mukhyadhihari, Nagar Parishad, Tuljapur Vs. Vishal Vijay Amrutrao and others*** [2015 (5) Mh.L.J. 75] and the learned Division Bench of this Court, in the matter of ***Municipal Council, Tirora & another Vs. Tulsidas Baliram Bindhade*** [2016(6) Mh.L.J. 867], has concluded that in State instrumentalities like the petitioners herein, there cannot be a direction by the Industrial Court to grant permanency to the complainant from a particular date. A direction to forward the proposals of such claimants to the appropriate authority for consideration is appropriate and it is to be left to the competent authority of the State to approve regularization and/or creation of posts for regularization.

06. Considering the above and the fact that the respondent has been reinstated and is in employment or may have attained the age of superannuation. I find that the impugned judgment of the Industrial Court does not require any interference, but a slight clarification. The operative part of the order re-

produced above to the extent of the direction shall stand modified as under :-

(a) The petitioners shall forward the proposal of the respondent along with all similarly situated comparable employees who have worked for more than 10 years in employment (Considering the directions of the Hon'ble Apex Court in the matter of **Secretary, State of Karnataka Vs. Umadevi & others [(2006) 4 SCC 1]**) for considering the said employees for regularization strictly on the basis of their seniority.

(b) Such proposal shall be forwarded to the Director, Geologist, Groundwater Survey & Development Agency, Maharashtra State, Pune. Said proposal of all such daily wagers / temporaries shall be forwarded by the petitioners to the Director, Geologist, Groundwater Survey & Development Agency, within a period of 08 (eight) weeks from today.

(c) The competent authority, after receipt of the proposals, shall take a decision within 16 (sixteen) weeks, with regard to absorption of such employees, strictly on the basis of their seniority and vacancies in permanent posts.

07. This Writ Petition is partly allowed as above and rule is made partly absolute in the above terms.

(Ravindra V. Ghuge)
JUDGE

.....