

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3208 OF 1997
AND
CIVIL APPLICATION NO.3878 OF 2000

1. The State of Maharashtra

2. Conservator of Forest
"Vanvrutta", Osmanpura,
Aurangabad.

3. Divisional Conservator
of Forest,
"Vanvrutta", Osmanpura,
Aurangabad.

..Petitioners

Versus

1. Marathwada Sarva Shramik
Sanghatna, Reg. No.AWB-121,
Trade Union Centre, Kotwalpura,
Aurangabad (through its
General Secretary).

2. Member,
Industrial Court, Jalna.

..Respondents

...
Shri S.N.Kendre, AGP for petitioners,
Shri A.S.Shelke, Advocate for respondent 1.
Dismissed against respondent 2.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 19, 2017
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ORAL JUDGMENT :-

1. The petitioners are aggrieved by the judgment and order dated 30.4.1997, by which, the Industrial Court has partly allowed Complaint (ULP) Nos. 201 of 1988, 66 of 1989, 105 of 1989 and 26 of 1991.

2. This Court by its order dated 4.12.1997 has observed as under:-

“ Heard Shri S.K.Kadam, learned AGP for the petitioners and Shri Shelke, learned counsel for the respondent.

Rule.

Interim relief in terms of prayer clause (C). At this stage the learned counsel for the petitioner submitted that the Government has already started the process of absorbing some of the employees by Government Resolution dated 31.1.1996, it is made clear that the interim order issued by this Court, shall not come in the way of the Government for absorbing the employees.”

3. The learned AGP on behalf of the petitioner has strenuously criticized the impugned judgment. Shri Shelke, learned Advocate for the respondents points out that the Government Resolution dated 31.1.1996 is self explanatory and has been implemented by the petitioners.

4. It is stated that pursuant to the order of this Court dated 4.12.1997, several respondents have been absorbed as per Government Resolution 31.1.1996. Those workers, who were working on EGS, were excluded from the benefits of the Government Resolution by the order of this Court.

5. The learned Division Bench of this Court in the matter of Municipal Council, Tirora Vs. Tulsidas Baliram Bindhade [2016 (6) Mh.L.J. 867], has concluded that in State instrumentalities, Standing Order 4C will have no applicability as such instrumentalities cannot regularize the daily wagers / temporaries unless the posts are created and are available. In this backdrop, I find that the Industrial Court has rightly concluded that the case of each of the workers, who are party to the complaints, should be scrutinized and those who are working on EGS should be excluded and the rest can be absorbed based on their seniority and availability of posts in the light of the Government Resolution dated 31.1.1996. There is no dispute that by virtue of the said Government Resolution, these benefits are extended w.e.f. 1.11.1994 to the eligible candidates.

6. Considering the above and in the light of the order of this Court dated 4.12.1997, this petition is disposed off. In the event, any of the employees concerned with these proceedings are yet to be considered under the Government Resolution dated 31.1.1996 and are not ineligible, the petitioners shall proceed to scrutinize each of such cases and pass necessary orders granting regularization to the eligible candidates strictly in accordance with the Government Resolution dated 31.1.1996, within a period of four months from today.

7. Needless to state, in the event any of these employees have superannuated or have unfortunately passed away, their cases would be considered as per the seniority in the light of the Government Resolution and the benefits to such eligible persons shall be extended to their legal heirs.

8. Rule is, therefore, discharged.

9. Pending Civil Application No.3878 of 2000, praying for deleting names of five candidates named therein, as they have been regularized in service, is allowed.

(RAVINDRA V. GHUGE, J.)

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akl/d