

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2603 OF 1998

1. The State of Maharashtra
 2. The Executive Engineer,
Upper Pravara Canal,
Division, Ahmednagar
- PETITIONERS

VERSUS

1. Bhagwan Jagnath Gite,
Gitewadi, Post : Chincholi,
Tq.Pathardi, Dist.Ahmednagar
 2. The Presiding Officer,
2nd Labour Court, Ahmednagar
- RESPONDENTS

WITH
WRIT PETITION NO.5177 OF 2001

Bhagwan Jagannath Gite,
Age-41 years, Occu-Nil,
R/o at Gitewadi,
Post : Chichandi, Tq. Pathardi,
Dist. Ahmednagar

– PETITIONER

VERSUS

1. The State of Maharashtra,
 2. The Executive Engineer,
Uppar Pravara Canal Division,
Ahmednagar,
 3. The Presiding Officer,
2nd Labour Court,
Ahmednagar
- RESPONDENTS

Mr.N.T.Bhagat, AGP for the petitioner.
Mr.N.C.Garud, Advocate for respondent No.1.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 23/06/2017

PER COURT :

Writ Petition No.2603 of 1998

1. The petitioner is aggrieved by the judgment and award dated 25/09/1997 by which the Labour Court has passed the following order :

“Reference is partly allowed.

The first party is directed to take the workman as a Muster Assistant from the date of order, without continuity of service and back wages. Parties to bear their respective costs.

*Date : 25/09/1997
Ahmednagar”*

2. I have considered the submissions of the learned Advocates for the respective sides. The prayer of the workman for reinstatement has been accepted by the Labour Court. Continuity and back wages have been denied. The respondent was working as a ‘Mustering

Assistant’.

3. With regard to the ‘Mustering Assistant’ in the State of Maharashtra, the said issue had reached the Hon’ble Apex Court in a group of matters. Several judgments were delivered by this Court prior thereto with regard to the continued employment of Mustering Assistants and the matters regarding their regularization in service. The Hon’ble Apex Court had permitted the State of Maharashtra to prepare a scheme for regularizing the employment of Mustering Assistants.

4. By order dated 02/12/1996, the learned 3 Judges Bench of the Hon’ble Apex Court has passed the following order in Civil Appeal No.15339/1996 :-

“Special leave granted.

The impugned order of the High Court dated 22nd March 1991 is set aside and we direct that the question of absorption into the regular service shall be governed by the scheme prepared by the State Government contained in the Government Resolution dated 01/12/1995. We have approved the scheme and we direct that all the employee who fall within the parameters of the scheme should be similarly treated so that the possibility of individuals coming for redress under the scheme may not arise as that would only crave avoidable litigation.

The appeal will stand disposed of accordingly with no order as to costs.”

5. Pursuant thereto, the State of Maharashtra has undertaken the exercise of regulating and regularizing the services of Mustering Assistants. By judgment dated 18/08/21001 and 30/08/2001 delivered by this Court in WP No.703/1997 and several connected matters, the State Government was directed to consider the claims of the Mustering Assistants for absorption in regular service as per the scheme prescribed by GR dated 01/12/1995. The judgments of the Industrial Court were set aside. Paragraph No.17 of the judgment of this Court dated 30/08/2001 is reproduced hereinbelow :-

“In the result, petitions are allowed. The judgment and order passed by the Member of the Industrial Court, Ahmednagar, dated 29/12/1994, in Complaint (ULP) Nos. 9/1991, 41/1989, 40/1989, 240/1989, 151/1989, 27/1989, 89/1989, 661/1989, 98/1989, 193/1989, 522/1989, 53/1989, 45/1989, 120/1989, 43/1989, 427/1989, 15/1990, 16/1989, 19/1989, 28/1989, 22/1989, 398/1989, 83/1990 and 88/1989, is quashed and set aside. However, the petitioners shall consider the claim of the respondents for absorption in regular service in accordance with the scheme prepared by the State Government contained in Government Resolution dated 1st December 1995, so also in accordance with the norms laid down in the Government Resolution dated 21st April 1999.”

6. Considering the above, this petition is partly allowed. The impugned award dated 25/09/1997 is quashed and set aside and Ref.(IDA) No.55/1993 stands answered in the negative. Akin to the directions of this Court reproduced above, petitioner No.2 shall prepare the proposal of the respondent/employee within a period of 6 (six) weeks from today and forward the same to the appropriate department of the State Government for consideration of his case as per the GR dated 01/12/1995. Needless to state, if the respondent is entitled to any benefits under the said GR, the petitioner shall initiate necessary steps within a period of 12 weeks from the date of receipt of the proposal.

7. Learned Advocate for the employee submits that the address mentioned in the petition is the address for correspondence. Rule is made partly absolute in the above terms.

Writ Petition No.5177 of 2001

8. Learned Advocate for the workman, who is the petitioner in WP No.5177/2001 submits that this petition was being tagged with WP No.2603/1998 and both the matters were being heard together under the order of this Court dated 24/04/2017.

9. He, therefore, submits that considering the above order, the second petition filed by the workman would not survive and can be disposed of.

10. As such, the second petition stands disposed of. Rule is discharged in the second petition.

11. Pending civil application stands disposed of.

(Ravindra V.Ghuge, J.)