

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1453 OF 2000

1. Krishi Utupanna Bazar Samiti, Dhule
(Through Secretary, Bazar Samiti Dhule)
 2. The Sabhapati,
Krishi Utupanna Bazar Samiti, Dhule,
Dhule
- PETITIONERS

VERSUS

1. Rajendra Chintaman Gangurde,
Age-Adult, Occu-Service,
R/o Hamal Mapadi Plot,
Near Guru Dutta Mandir, Dhule,
 2. The Member,
Industrial Court, Nasik,
 3. The State of Maharashtra,
- RESPONDENTS

Mr.B.R.Warma, Advocate for the petitioners.
Mr.D.J.Patil h/f Mr.N.B.Suryawanshi, Advocate for respondent No.1.
Mr.S.K.Tambe, AGP for respondent Nos. 2 and 3.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 05/06/2017

ORAL JUDGMENT :

1. The petitioner/Establishment is aggrieved by the judgment dated 27/05/1998 delivered by the Industrial Court, Nashik, by which Complaint (ULP) No.660/1996 has been allowed and

respondent No.1/employee has been granted permanency as a Clerk w.e.f. 01/01/1984 with all monetary benefits. Costs have also been imposed.

2. It is informed that this Court, in a group of Writ petitions Nos. 2560/1997 to 2564/1997 with Writ Petition No.2567/1997 to 2569/1997 and 2577/1997, has dealt with an identical challenge posed by the same petitioner herein. It is stated that this petition was left out of the said group when this Court decided the said group of petitions by judgment dated 15/12/2016.

3. Considering the contentions of the litigating sides, I find that there are no circumstances to take a different view in this matter.

4. As such, this petition is partly allowed. The declaration of ULP set out in Clause 1 and 2 of the order and the direction to pay costs in clause 5 of the order, stand quashed and set aside. The directions set out in clause Nos.3 and 4 of the impugned order stand modified as under :-

[a] The petitioner shall submit a proposal in relation to the respondent Rajendra Chintaman Gangurde, if not already submitted, to the Director of Marketing, Pune within a period of 6 (six) weeks

from today.

[b] The concerned authority, after receipt of the said proposal, shall consider the case of the respondent by keeping in view all such claims of the other similarly situated workmen whose cases have been decided by this Court by judgment dated 15/12/2016.

[c] The Director of Marketing, Pune who is represented through the State in these matters shall decide the said proposal based on the available vacant posts and shall accordingly grant regularization from the date the said post has fallen vacant, within a period of 16 weeks thereafter.

(d) All such employees inclusive of this respondent would, therefore, be granted deemed dates of regularization strictly on the basis of their seniority and would be entitled to monetary benefits accordingly.

(e) In the event the Director of Marketing finds it necessary to create posts considering the quantum of work available and subject to the Rules, he would be expected to do so as per rules.

(f) Needless to state, the above said proposal depends upon the factum of employment of this respondent taking into consideration whether the respondent is in employment today.

(g) The services of this respondent shall not be discontinued merely on the ground that the proposal is pending.

5. Rule is made partly absolute in the above terms.

(Ravindra V.Ghuge, J.)