

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2253 OF 1998

The Chief Executive Officer,
Zilla Parishad, Beed and others

Petitioners

Versus

The State of Maharashtra & others

Respondents

Mr.H.K. Mundhe advocate for the petitioners
Mr. N.T. Bhagat, AGP for Respondent No.1
Mr. P.R.Tandale advocate for respondent No.2.

CORAM : **RAVINDRA V. GHUGE, J**

(Date : 30th June, 2017.)

PER COURT :-

1 At the request of the petitioner, the matter was adjourned on 2.3.2017. Thereafter, none appeared for the petitioner on 9.3.2017 and 16.3.2017. On 20.3.2017, it was mentioned that the petitioner would take instructions, as the learned counsel is not on panel. Again matter was adjourned on 6.4.2017 and 12.6.2017.

2 I have heard learned counsel for the petitioners, respondent No.2 Govind Kashinath Jadhav and the learned AGP.

3 The Respondent No.1 workman had filed Complaint ULP. No. 124/1994, alleging unfair labour practices under items 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions & Prevention of Unfair labour Practices Act, 1971 (MRTU & PULP

Act). He was granted permanency by order dated 17.1.1989. As per the Government Resolutions dated 25.1.1963 and 10.10.1964, he was entitled to promotion as Mistri Grade-II . Though he made several representations, till 18.11.1993, he was not granted such promotion, though the original respondent No.3 had recommended him.

4 The workman, in his complaint, had stated that he was covered by the Maruf settlement and the benefit of pay scale was given to him from 17.1.1981. Both the litigating sides did not place the Maruf settlement on record. The Industrial Court itself called for the Settlement and after considering it, it concluded that the Government Resolutions of 1963 and 1964 were not nullified by the Maruf settlement. Even the Kalelkar settlement is not affected by the Maruf Settlement.

5 In the light of the above, the Industrial Court considered that the two Government resolutions of 1963 and 1964 give a right to the respondent to claim promotion, as Mistri Grade-II in class III cadre.

6 After the complaint was allowed by the impugned Judgment dated 27.6.1996, the petitioner Zilha Parishad approached this Court.

7 The learned counsel for the petitioner Mr. Mundhe has strenuously canvassed the following points:-

(i) The petitioner was not SSC when he joined and has subsequently passed SSC in 1982 by keeping the petitioner in the dark.

(ii) He himself had opted for the Maruf settlement and hence, Kalelkar settlement was not applicable.

(iii) After getting benefit of Maruf settlement, he was not entitled to promotional avenues which was otherwise available under the Kalelkar settlement.

8 In so far as the first point raised by Shri Mundhe is concerned, the fact remains that the petitioner has granted permanency to the respondent employee by order dated 17.1.1989 w.e.f. 17.1.1981. This would nullify the issue that he was not SSC in 1981 since the issue as regards grant of permanency from 17.1.1981 now, cannot be reopened after about 36 years.

9 In so far as the second and third points are concerned, the Maruf Settlement did not provide for promotion under clause 4. The Kalelkar settlement provided for such promotion under the same clause. In this peculiar backdrop, it is unconscionable that a

class IV worker, who accepts the Maruf settlement, would be debarred from seeking promotion through-out the service span.

10 There is nothing placed on record, either before the Industrial Court or even before this Court, which would indicate that those employees who opted for Maruf settlement, were disqualified from getting benefits of the Government Resolutions of 1963 and 1964, which provided for a promotional avenue to a person who is working as gangman for three years to the post of Mistri Grade-II in class III cadre. In this backdrop, the directions of the Industrial Court to calculate these three years from the date of completion of SSC by the respondent cannot be faulted, much less termed as perverse or erroneous.

11 Considering the above, I do not find that the impugned Judgment could be interfered with or can be termed as being perverse or erroneous. This petition, being devoid of merits, is therefore, dismissed. Rule is discharged.

(RAVINDRA V. GHUGE , J)