

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.208 OF 1998

1. The State of Maharashtra,
 2. The Executive Engineer,
Minor Irrigation Division,
Osmanabad,
 3. The Sub Divisional Officer,
Minor Irrigation Sub Division,
Tulajapur, Dist.Osmanabad
- PETITIONERS

VERSUS

General Secretary,
Muster Assistant Va Mistry
Sanghtana (M.S.) Tq.Branch,
Tuljapur, r/o c/o S.P.Aghor,
Samartha Nagar, Osmanabad

-- RESPONDENT

Mr.S.P.Tiwari, AGP for the petitioners.
None for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 09/02/2017

ORAL JUDGMENT :

1. The petitioners are aggrieved by the judgment and order dated 17/09/1996 delivered by the Industrial Court by which Complaint (ULP) No.422/1990 filed by the respondent/Union espousing the cause of 6 workers was allowed and the petitioners were directed to regularize their services as permanent employees w.e.f. 01/10/1988 and pay them the monetary benefits as 'Mustering Assistant'.

2. This issue is no longer *res-integra*. Matters pertaining to the 'Mustering Assistants' had reached the Hon'ble Supreme Court. The State Government was directed to prepare a scheme with regard to such 'Mustering Assistants' who were performing duties for the EGS and were not performing duties on EGS. The State introduced a GR dated 01/12/1995 after the scheme placed before the Hon'ble Apex Court was accepted. Thereafter, several such matters fell for the consideration of this Court in the following cases :-

- [a] Manabhau Damu Khairnar and others Vs.State of Maharashtra and others [(1996)1 LLJ 990] = [1995(II) CLR 649],*
- [b] Chief Executive Officer, Zilla Parishad, Ahmednagar Vs. Daulat Narsingrao Deshmukh and another, [2001(2) Mh.L.J. 543],*

3. Considering the scheme, the GR dated 01/12/1995 and the law laid down by this Court, the petitioners are obliged to consider the cases of the respondent strictly as per the GR dated 01/12/1995. Those candidates, eligible under the GR, are accordingly to be regularized in employment. By the order of the Honb'le Apex Court dated 02/12/1996 in Civil Appeal No.15339/1996 in State of Maharashtra and another Vs. Subhash Narayan Ahirrao, the judgment of this Court dated 22/03/1991 was set aside and since

the Hon'ble Apex Court had approved the scheme as per GR dated 01/12/1995, the employees were held eligible strictly as per the GR.

4. In the light of the above, this petition is partly allowed. The impugned judgment and order dated 17/09/1996 delivered by the Industrial Court is modified and the petitioners are directed to consider the cases of these 6 employees, if not already considered, as per the GR dated 01/12/1995 and pass appropriate orders in accordance thereof within 12 weeks thereafter.

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

(RAVINDRA V. GHUGE, J.)