

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1171 OF 1998

Maharashtra State Road
Transport Corporation,
Through its Divisional
Controller, Jalgaon.

..Petitioner

Versus

Phool Singh Ekoba Patil
age major, occ. Ex-employee,
R/o at Post Wakdi, Tq. Jamner,
District Jalgaon.

..Respondent

WITH
WRIT PETITION NO. 1172 OF 1998

Maharashtra State Road
Transport Corporation,
Through its Divisional
Controller, Jalgaon.

..Petitioner

Versus

Madhukar Sukhdeo Ganeshe,
age major, occ. Ex-employee,
R/o at Post Jamner,
District Jalgaon.

..Respondent

WITH
WRIT PETITION NO. 1173 OF 1998

Maharashtra State Road
Transport Corporation,
Through its Divisional
Controller, Jalgaon.

..Petitioner

Versus

Ramdas Trimbak Baviskar,
age major, occ. Ex-employee,
R/o at Post Ganeshwadi,
Tq. Jamner, District Jalgaon.

..Respondent

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Advocate for Petitioners : Shri M.K.Goyanka
Advocate for Respondents : Shri P.R.Patil

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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 16, 2017

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ORAL JUDGMENT :-

1. In all these petitions, the petitioner / MSRTC is aggrieved by the judgment of the Industrial Court dated 13.6.1997, delivered in Complaint (ULP) Nos. 593, 339 and 592 of 1990 respectively.

2. All these petitions have been admitted and interim relief has been refused. By the order dated 29.8.1998, the statement of the petitioner / Corporation was recorded that they would implement the directions of the Industrial Court subject to the final result of the petition. It is informed by the learned Advocate for the petitioner that amounts of Rs. 60,141/-, Rs.10,799/- and Rs. 34,918/- have been paid to these respondents, namely; Phool Singh Ekoba Patil, Madhukar Sukhdeo Ganeshe and Ramdas Trimbak Baviskar, respectively, pursuant to the statement recorded by this Court on 29.8.1998.

3. I have heard Shri Goyanka, learned Advocate for the petitioner and Shri Patil, learned Advocate on behalf of the respondents / employees.

4. Though it is quite obvious that the complaints filed by these respondents put forth vague pleadings, the written statement filed by the petitioner is also vague and the impugned judgments of the Industrial Court do not indicate that the contents of the Statement Circular No. 9 dated 26.10.1989 and the contents of the Settlement at issue have not been analyzed or discussed, yet I am not inclined to remand the matters back to the Industrial Court after a passage of 27 years. I find that it would be travesty of justice to remand the matters back.

5. In the above backdrop, I have heard the learned Advocates and have gone through the Circular No.9 and have perused the Settlement of 1988, which was placed before the Industrial Court and is available for the perusal of this Court through the record and proceedings.

6. It is, therefore, an issue of the basic pay, which is the foundation to the benefits of the fitment of the respondent employee in the pay scale. Those employees, who were drawing basic pay less than Rs.680/- at the relevant time, were given the pay scale fitment by virtue of the benefit of dearness allowance and ad-hoc increment and the pay scale was fixed at Rs.1445/- from 1.4.1988. On a similar principle, those who were drawing basic pay scale of Rs.680/- or

more, were given the fitment in the pay scale of Rs.1795/-. There is no dispute that all these respondents were drawing basic pay less than Rs.680/- and were placed in the pay scale of Rs.1445/-.

7. In cross-examination, the witness of these respondents admitted that two employees Shri Baviskar and Shri Barkale were junior to the complainant Shri Ganeshe. However, the basic pay of Shri Ganesh was less than these two employees, because he was unauthorizedly absent and had suffered leave without wages which affected his pay scale. Two employees, namely, Shri B.N.Patil and Shri R.S.Shinde were drawing basic pay of more than Rs.680/- and hence they were granted fitment in the pay scale by giving them the benefit of the D.A. Their pay scale was also Rs.1445/- and hence, the respondents could not have been granted the pay scale of Rs.1795/-.

8. All these aspects though not clear from the impugned judgments, I find that there is no dispute between the litigating sides that the employees are praying for the benefits of 1988 settlement as per circular No.9 dated 26.10.1989 and they do not desire a single penny more than what is payable to them under the circular and the settlement. The Corporation also states that it is obliged to give the respondents the benefit as per the settlement read with Circular No.9.

9. The respondents do not claim that the petitioners have still not implemented the impugned judgment. The Industrial Court has directed the petitioners to consider the claim of the respondents in the event there is any anomaly. The Industrial Court has held that then Shri Baviskar and Shri Barkale have been given the benefit of Circular No.9, the petitioner should recalculate the benefits as per Circular No.9 and re-fix the pay scale of these respondents / original complainants.

10. Considering the above, I deem it appropriate to partly allow these petitions by setting aside the declaration of ULP against the Corporation, keeping in view that the Industrial Court has not come to a specific conclusion that these respondents deserve to be given fitment in the pay scale of Rs.1795/- and that grant of pay scale of pay scale of Rs.1445/- is illegal. The Industrial Court has only directed the petitioner to re-fix the pay scale of the respondents in the light of Circular No.9 and the settlement.

11. As such, considering that the amounts mentioned above have been paid by the petitioner to these respondents in deference to Clause 3 of the impugned order, the petitioner is directed to re-consider the individual cases of these respondents, considering the 1988 settlement and Clause 9 and accordingly pass a reasoned order

informing the respondents it's decision within a period of eight weeks from today. In the event any anomaly is noticed keeping in view that the benefits are extended to Shri Baviskar, Shri Barkale and Shri Mali, the petitioner shall adjust the unpaid amounts with those amounts that have been paid to the respondents as noted above. In the event, any excess amount is paid or the pay scales are to be re-fixed and if any recovery is to be initiated, the respondents would be at liberty to resort to a legal adjudicatory process for the redressal of their grievance.

12. Rule is, therefore, made partly absolute in the above terms in all these petitions.

13. R & P received from the Industrial Court, Jalgaon shall be returned forthwith.

(RAVINDRA V. GHUGE, J.)

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