

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4118 OF 2016

Laxman s/o. Pandurang Shinde ..Petitioner

Vs.

The State of Maharashtra
and ors. ..Respondents

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Mr.A.T.Jadhavar, Advocate for petitioner

Mr.A.P.Basarkar, AGP for respondent no.1

Mr.H.T.Gaikwad, Advocate for respondent no.2

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**CORAM : S.V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

DATE : APRIL 03, 2017

PER COURT :

Heard.

2. Mr.Jadhavar, learned counsel for the petitioner submits that similarly situated persons have been accorded permanency and their services have been regularised. The petitioner is working on the post of Group Secretary with the Respondent No.2 since February 2004 continuously. A Resolution

has been passed on 29.5.2004 by the Board of Directors of respondent No.2 to absorb the petitioner and other employees on the post of Group Secretary in the pay-scale of Rs.4000-6000. According to the learned counsel, the other similarly situated employees who had filed the U.L.P. before the Labour Court have been accorded the benefit of permanency and the pay-scale. The petitioner is singled out. According to the learned counsel, the principle of 'equal pay for equal work' would apply. The petitioner is entitled for pay-scale of Rs.4,000-6,000 with effect from 1.3.2000.

3. Mr.Gaikwad, learned counsel for respondent no.2 submits that the petitioner did not file any U.L.P. seeking regularisation and application was filed U/s 33C(2) of the Industrial Disputes Act. The order was passed by the Industrial Court. The respondents filed a Writ Petition against the said order which came to be allowed and the order of the

Court below U/s 33C(2) of the Industrial Disputes Act, was set aside. In the said Writ Petition, the Court has specifically made observation that the respondent therein i.e. the petitioner herein is entitled to approach the Labour and Industrial Court under the M.R.T.U. and P.U.L.P. Act. In the light of that, the petitioner could not have approached this Court directly. When the order U/s 33C(2) of the Industrial Disputes Act in favour of the petitioner is set aside, no question arises of the petitioner being paid pay-scale from retrospective effect.

4. We have considered the submissions canvassed by the learned counsel for respective parties. It is not disputed by the respondents that the persons who were appointed along with the present petitioner pursuant to the same Resolution, have been accorded permanency and are being paid as per the pay-scale. It would be a formality in asking the petitioner to again approach the

Industrial and Labour Court under the M.R.T.U. and P.U.L.P. Act. All other employees who are similarly situated as that of the petitioner have been accorded permanency. The petitioner naturally would be given the same treatment being similarly situated in all respects i.e. date of appointment, the post on which he is appointed is one and the same and all are appointed pursuant to one and the same Resolution.

5. As far as awarding pay-scale from 1.11.2004 is concerned and ordering payment of the same, the same would be inequitable at this stage. The pay-scale was awarded by the Court U/s 33C(2) of the Industrial Disputes Act. The said order is set aside by this Court in Writ Petition filed by the respondents. In the light of that, though we hold that the petitioner is entitled to be granted permanency as is accorded to the other similarly situated employees, the petitioner would be entitled for the regular salary as per the pay-

scale of Rs.4,000-6000 per month from the date of this order. However, for all further service and retiral benefits, the petitioner would be deemed to be considered as permanent as is granted to the other similarly situated employees i.e.from the year 2004.

6. The Writ Petition is accordingly disposed of with aforesaid observations and directions. No costs.

[SANGITRAO S. PATIL, J.] [S.V. GANGAPURWALA, J.]

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