

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 6058 OF 2016

(Ajmat Khan s/o Yusuf Khan & Anr. vs. Punjabrao Krishi Vidyapeeth, Akola thr. Registrar)

AND

WRIT PETITION NO. 4266 OF 2016

(Dilip s/o Bhanudas Pachade vs. Punjabrao Krishi Vidyapeeth, Akola thr. Registrar)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
JANUARY 31, 2017.**

Heard Mrs. S.W. Deshpande, learned counsel for
the petitioners and Shri Abhay Sambre, learned counsel for
the respondent.

2. Perused the judgment delivered by the Industrial
Court on 04.06.1990 in ULP Complaint Nos. 79 of 1987 and
18 other matters.

3. The Industrial Court has directed regularization
and grant of permanency. The individual complainants who
have put in five years of service were directed to be made
permanent. The Industrial Court also permitted the
employer to move the State Government for creation of
additional posts.

4. The employer came to this Court in Writ Petition
No. 2830 of 1990 and the learned Single Judge of this Court
on 11.02.1991 found that though technically they could not

have been made permanent for want of sanction from the State Government, the status and benefits of the permanent employees needed to be conferred. The challenge of employer was, therefore, dismissed.

5. The employer then approached the Hon'ble Apex Court in SLP and on 18.09.1991, the Hon'ble Apex Court has passed the following order :

“Heard Mr. Bobde. We have looked into the order of the Industrial Court dated 4th June, 1990. We would like to indicate that the net effect of that order is that the respondents are entitled to regularization from the date of initial service and from the date of the order they would be entitled to all the benefits that regular and permanent employees are entitled to for the wages, payment of dearness allowances, leave as admissible etc. Upon regularization for purpose of pension, the entire period of service with retrospective effect would be counted. The Special leave petition is disposed of accordingly.”

6. The employer has filed an affidavit before this Court stating that accordingly all the benefits have been paid to respective complainants. The complainants who are petitioners before this Court, dispute it.

7. We find that on 15.01.2016, the employer has issued an order thereby regularizing employment of the petitioners on permanent establishment as “Helpers” in pay

band of Rs.4440-7440 with Grade Pay of Rs.1300/- on probation for a period of two years. This order carry names of seven employees. It does not stipulate that there were earlier orders passed by the employer, regularizing petitioners and conferring upon them permanent status.

8. In this situation, when benefit ought to have been conferred from 04.06.1990 in terms of directions of the Hon'ble Apex Court, the order dated 15.01.2016 falls short to bring on record that compliance.

9. Shri Sambre, learned counsel for the respondent, however, has relied upon the assertions in reply before this Court to urge that said benefit has already been extended. Mrs. Deshpande, learned counsel for the petitioners disputes this.

10. The receipt of payment by an individual from the employer like the respondent will definitely be evidenced in some record. Hence, the aspect of payment can be verified on the strength of those records. However, no such records are annexed along with the reply by the respondent.

11. In this situation, we direct the respondent to comply with the directions of the Industrial Court dated 04.06.1990 as explained by the Hon'ble Apex Court on 18.09.1991 within a period of three months from today. Payment if not already made, shall also be released to the eligible petitioners during said period. The dispute about

receipt of payment shall be decided after giving the petitioners an opportunity of hearing through their counsel. The payments made hereafter to the individual petitioners shall be deposited in their bank accounts only.

12. Writ Petitions are thus partly allowed and disposed of. However, in the facts and circumstances of the case, there shall be no order as to costs.

JUDGE

JUDGE

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