

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

WRIT PETITION NO. 3940 OF 2000

- 1 The Chief Executive Officer,
Zilla Parishad, Aurangabad.
- 2 The Executive Engineer,
Works, Zilla Parishad,
Aurangabad.
- 3 The Executive Engineer,
Irrigation, Zilla Parishad,
Aurangabad.

...PETITIONERS

-VERSUS-

- 1 Shaikh Hamid s/o Shaikh Rashid,
Age : Major, Occupation : Service,
R/o Makhasud Colony,
Roshangate, Aurangabad.
- 2 Syed Basid Hussain s/o Fida Hussain Syed,
Age Major, Occupation : Service,
R/o Syed Mulla, Syed Wada, Ajantha,
Tal.Sillod, District Aurangabad.
- 3 Shaikh Imam Shaikh Farid,
Age : Major, Occupation : Service,
C/o Hasib Bhai, Gajipura,
Paithan, District Aurangabad.
- 4 VD.Kulkarni,
Age : Major, Occupation : Service,
R/o Vithal Mandir, New Baijipura,
Indira Nagar, Aurangabad.
- 5 Kapurchand Kondiram Dhunat,
Age : Major, Occupation : Service,

R/o N-13, C-18-1, Hudco,
Aurangabad.

6 State of Maharashtra.

...RESPONDENTS

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Advocate for the Petitioners : Shri S G Shinde.
Advocate for Respondents 1 and 4 : Shri Shantanu Deshpande h/f Shri
R.J.Godbole.
AGP for the State : Shri S.K.Tambe.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd March, 2018

Oral Judgment :

1 The Petitioner/ Zilla Parishad is aggrieved by the judgment and order dated 27.04.2000 delivered by the Industrial Court, Aurangabad in Complaint (ULP) No.406/1991, by which the order passed by the Petitioner/ Zilla Parishad dated 01.11.1991 withdrawing the benefits of Converted Regular Temporary Establishment (CRTE) with retrospective effect from 31.08.1991, has been set aside.

2 When this Court heard the Petitioner on 20.09.2000 and when the petition was admitted on 12.02.2001, interim relief was not granted to the Petitioner. As such, the impugned judgment continued to be in operation.

3 I have heard the strenuous submissions of the learned

Advocates for the Petitioner and Respondent Nos.1 and 4.

4 This petition is already dismissed against Respondent Nos.2, 3, 5 and 6. Respondent Nos.2, 3, 5 and 6 are identically situated employees as like Respondent Nos.1 and 4. By the dismissal of this petition, the impugned judgment of the Industrial Court has attained finality to the extent of these Respondents. Being identically situated, no different orders could be passed against Respondent Nos.1 and 4. The learned Advocate for Respondent Nos.1 and 4 informs that Respondent Nos.1 and 4 have passed away. Consequentially, this petition would abate.

5 Nevertheless, I have heard the learned Advocate for the Petitioner on the merits of the petition. It is undisputed that these Respondents were working for about 8 to 10 years as Mustering Assistants. The issue of Mustering Assistants, insofar as their regularization was concerned, has been put to rest by the Government Resolution dated 01.12.1995, which was presented before the Honourable Supreme Court in Civil Appeal No.15339/1996. By order dated 02.12.1996, the Honourable Supreme Court approved the Government Resolution dated 01.12.1995 which, in fact, is the scheme proposed by the State of Maharashtra for absorption of Mustering Assistants, Mustering Clerks and similarly situated employees subject to the terms and conditions of the said Government Resolution. The order of the Honourable Supreme Court dated 02.12.1996 would, therefore, be the

last word on this count.

6 It is not contended that these Respondents/ Workers have quit employment or are not reporting for work. The Chief Executive Officer, Zilla Parishad had passed the resolution on 04.02.1988 recommending that these Respondents be brought in MG-II category. The said request was accepted by the Government vide Government Resolution dated 19.10.1989. Benefits were thus, extended to these employees by bringing them on CRTE, which is as per the Kalelkar Award. By the communication dated 01.11.1991, the Chief Executive Officer, Zilla Parishad modified the earlier order and withdrew all benefits given to these Respondents with retrospective effect from 31.08.1991.

7 The above act on the part of the Petitioner would amount to alteration in the service conditions of the employees under item (7) of the Fourth Schedule under Section 9-A of the Industrial Disputes Act, 1947. Admittedly, no notice of change has been given. Even otherwise, if these employees were working for more than five years with the Petitioner/ Zilla Parishad, they would be entitled for benefits under the Kalelkar Award.

8 Nevertheless, since the Petitioner/ Zilla Parishad has challenged the impugned judgment and similar challenges with regard to permanency in service have been dealt with by the Honourable Supreme Court, it would be appropriate to direct the Petitioner/ Zilla Parishad to

comply with the impugned judgment of the Industrial Court.

9 This Writ Petition, therefore, is disposed off. Rule stands
discharged.

kps

(RAVINDRA V. GHUGE, J.)