

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1383 OF 1997

Shri Navnath S/o. Krishnaji Borade,
Age. Major, Occu. Service,
R/o. At Post Sawargaon Via Bhoom,
Tq. Paranda, Dist. Osmanabad. ...Petitioner.

Versus

1. Member, Industrial Court,
Solapur.
2. Superintending Engineer,
Building & Construction Deptt.,
Osmanabad.
3. Executive Engineer,
P.H. Construction Unit
C/o. Building and Construction
Deptt., Osmanabad. ...Respondents.

Advocate for Petitioner : Mrs. M.A. Kulkarni.
AGP for Respondent Nos. 1 to 3 : Mr. S.R. Yadav.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 21st June, 2018

ORAL JUDGMENT :

1. The Petitioner is partly aggrieved by the judgment and order dated 16/01/1996, delivered by the Industrial Court, by which, Complaint (ULP) No. 161/1986 has been allowed. The status and privileges of permanency have been granted from 01/10/1988. Grievance is that it should have been granted from 01/09/1983.

2. The Petitioner has put forth a two-fold submission. Firstly, that he was working as a Road Karkoon during 01/09/1983 to August, 1986. He, therefore, be regularized as a Road Karkoon. Secondly, that as he was working as a Road Karkoon, all monetary benefits should be paid from 01/09/1983, as per the scale of a permanent Road Karkoon.

3. I find from the impugned judgment that the Industrial Court has recorded that the Petitioner was working as a Road Karkoon between February, 1973 to August, 1973. He was issued with an appointment letter dated 01/09/1983, Exhibit U-11, indicating that he was appointed as a Mustering Assistant. The Industrial Court has noted that there was ample evidence on record to establish that the Petitioner was working as a Mustering Assistant.

4. The issue of regularization of Mustering Assistants has been put to rest by the order of the Hon'ble Apex Court (three Judges) dated 02/12/1996 in Civil Appeal No. 1593/1996, by which the scheme presented by the State of Maharashtra vide its GR dated 01/12/1995, for the approval of the Hon'ble Apex Court, has been

accepted. It is ruled that cases of regularization of Mustering Assistants, who fall within the parameters of the scheme, should be similarly treated and they would stand to gain the service benefits in accordance with the said scheme. The judgment of this High Court dated 22/03/1991, directing absorption, was therefore set aside.

5. Considering the above, the direction in clause 3 below paragraph No. 12 of the impugned order shall stand modified and the Respondent/State shall consider the case of the Petitioner strictly as per the G.R. Dated 01/12/1995. Needless to state, if he is entitled to any scale / monetary benefits / difference in wages by virtue of the said GR with retrospective effect, respondent Nos. 2 and 3 would accordingly decided the said claim of the Petitioner and ensure that such arrears are paid as expeditiously as possible and in any case within four months from this order. This Petition is disposed of with the above directions and Rule is discharged.

(RAVINDRA V. GHUGE, J.)