

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

WRIT PETITION NO.:2823 OF 2018

Chief Executive Officer, Zilla Parishad, Ahmednagar And another.

VERSUS

Janardhan Appasaheb Badre

WITH

WRIT PETITION NO.:2824 OF 2018

Chief Executive Officer Zilla Parishad Ahmednagar And another

VERSUS

Adinath Khanderao Pagire

WITH

WRIT PETITION NO.:2825 OF 2018

Chief Executive Officer Zilla Parishad Ahmednagar And another

VERSUS

Suleman Shaikh Khudbaksha Shaikh

WITH

WRIT PETITION NO.:2826 OF 2018

Chief Executive Officer Zilla Parishad Ahmednagar And another

VERSUS

Arjun Dada Ghadge

WITH

WRIT PETITION NO.:2827 OF 2018

Chief Executive Officer Zilla Parishad Ahmednagar And another

VERSUS

Bhausahab Martand Landge

**WITH
WRIT PETITION NO.:2828 OF 2018**

Chief Executive Officer Zilla Parishad Ahmednagar And another
VERSUS
Anant Dashrath Bidve

**WITH
WRIT PETITION NO.:2831 OF 2018**

Chief Executive Officer Zilla Parishad Ahmednagar And another
VERSUS
Prabhawati Prabhakar Kaldante

**WITH
WRIT PETITION NO.:2832 OF 2018**

Chief Executive Officer Zilla Parishad Ahmednagar And another
VERSUS
Bhagwan Tribak Deokar

...
Advocate for the Petitioner / Zilla Parishad : Shri More Kailas U.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 27th March, 2018

Per Court:

1 In all these petitions, the Petitioner/ Zilla Parishad is aggrieved by the judgments dated 09.01.2017 delivered by the Labour Court in different applications filed under Section 33-C(2) of the Industrial Disputes Act, 1947. By the impugned judgments, the Labour

Court has directed the Petitioner/ Zilla Parishad to pay the outstanding wages to these claimants.

2 The learned Advocate for the Petitioner/ Zilla Parishad has strenuously criticized the impugned judgments. His contentions and grounds for challenge formulated in the memo of the petitions can be summarized as under :-

- (a) These Respondents/ Claimants have submitted exaggerated claims.
- (b) They have failed to prove the amounts claimed by them as being unpaid legal dues.
- (c) The proceedings under Section 33-C(2) can be entertained only if there is a preexisting right.
- (d) Disputed questions have been raised by the Claimants before the Labour Court and such claims have been entertained.
- (e) The Labour Court has exercised the jurisdiction not vested in it by law.
- (f) The Labour Court has over stepped its jurisdiction.
- (g) The impugned judgments are perverse and erroneous.
- (h) The claims of these workers have been accepted on misplaced sympathy.
- (i) The order of this Court delivered in Writ Petition No.3162/2008 dated 30.04.2009 has not been followed by

the workers.

- (j) These petitions deserve to be allowed and the claims of the Respondents/ workers deserve to be rejected.

3 I have considered the impugned judgments in the light of the submissions of the learned Advocate.

4 The Respondents are those workers, who have been litigating for several years. They had first approached the Industrial Court, Ahmednagar in Complaint (ULP) No.141/1987 for claiming benefits of regularization. By judgment dated 04.04.1990, the complaint was allowed. The Zilla Parishad was held guilty of ULP under item 6 of Schedule IV of the MRTU & PULP Act, 1971. The Zilla Parishad was directed to give permanency to the said complainants w.e.f. 01.07.1987 and fix their pay scales and allowances as are applicable to similarly situated employees working with the Zilla Parishad and the State Government.

5 Since the above directions of the Industrial Court were not complied with, the said workers had again approached the Industrial Court in Complaint (ULP) No.219/1996 seeking directions to the Zilla Parishad to implement the earlier judgment of the Industrial Court. By judgment dated 26.02.2008, the Industrial Court directed the Zilla Parishad to implement the earlier directions of the Industrial Court and

ensure that all benefits including monetary benefits based on specific pay scales should be given to the said workers.

6 This judgment of the Industrial Court was challenged by the Zilla Parishad in Writ Petition No.3162/2008. By order dated 30.04.2009, the Writ Petition filed by the Zilla Parishad was disposed of and the statement of the Zilla Parishad based on the communication of the Chief Controller-cum- Accountant and Finance Officer, Zilla Parishad, dated 29.04.2009 was accepted and this Court observed that the Zilla Parishad will pay the workers, necessary pay scales and other benefits as long as they are in service.

7 A group of these workers/ identically situated workers approached the learned Division Bench of this Court in Writ Petition No.7802/2009 contending that all benefits flowing from the first judgment of the Industrial Court delivered on 04.04.1990 have not been given and the difference of wages as per the pay scales to which these workers are entitled to, have also not been paid. By judgment dated 12.08.2011, the learned Division Bench disposed of the said petition by holding that the same is not maintainable as the workers have an alternate remedy available for seeking implementation of the earlier judgments and for recovery of amounts.

8 It is pursuant to the observations of the learned Division Bench in the judgment dated 12.08.2011, that all these workers

approached the Labour Court by preferring their applications under Section 33-C(2) of the Industrial Disputes Act, 1947 in December, 2011. It is in the light of the observations of the learned Division Bench that the Labour Court considered the claims of these workers.

9 It is obvious from the impugned judgments of the Labour Court that the Zilla Parishad has shown gross negligence in dealing with the said proceedings. Besides filing the written statement, it did not place on record the relevant documents on the basis of which, the calculations, if disputed by the Zilla Parishad, could have been arrived at. Each of these workers have tendered their calculations based on the pay scales applicable and the Pay Commission's recommendations which were admittedly made applicable to similarly situated workmen, who were in services of the Zilla Parishad.

10 The Zilla Parishad examined its Accounts Officer Mr. Arun Kolhe. In cross-examination, he admitted that the benefits of the Fifth and Sixth Pay Commissions have been extended to the applicants. He further stated that the workers were not entitled to the claims, which they have put forth. He further admitted that the benefits of permanency were not extended to these workers (despite two judgments of the Industrial Court and the statement recorded before this Court in Writ Petition No.3162/2008). He admitted that these workers are entitled to leaves as well as earned leaves and commuted leaves. He further admitted that the

pay scale applicable to Class-3 employees of the Zilla Parishad, was applicable to these workers, who were working in the Printing Press.

11 The said witness further admitted that these workers were treated as Class-4 employees and the pay scale applicable to Class-4 employees was being paid to them. He also admitted that the difference of amounts as per the pay fixation has not been paid to these workers.

12 These workers had placed on record their calculations sheet below the list of documents below Exhibit U-21. The witness for the Zilla Parishad Mr.Arun Kolhe perused the said chart and admitted that it was the chart which was based on the pay scales that Class-3 employees are entitled to. It is on the basis of such evidence that the Labour Court held that these workers were entitled to Class-3 pay scales, were entitled to the pay scales as directed by the judgments of the Industrial Court and the statement of the Zilla Parishad recorded in the High Court and what was actually paid to these workers was the pay scale available to Class-4 employees. The Labour Court also recorded that the Zilla Parishad did not place any calculation before it apparently, since they desired to suppress the said calculations.

13 The Zilla Parishad has filed the Review Applications before the Labour Court, which were rejected by the judgments dated 24.11.2017.

14 It is obvious that most of these workers have now retired and

are senior citizens and have been litigating for their legitimate dues with the Zilla Parishad from 1987, over a period of about 31 years.

15 It requires no debate that the supervisory jurisdiction of this Court is to be exercised in matters where the impugned orders appear to be perverse, erroneous and likely to cause gross injustice to the other side, in view of the law laid down by the Honourable Supreme Court in *Syed Yakoob v/s K.S.Radhakrishnan*, **AIR 1964 SC 477** and *Surya Dev Rai v/s Ram Chander Rai*, **AIR 2003 SC 3044**. Supervisory jurisdiction of this Court is not to be exercised to permit a complacent/ sleeping litigant to fill in the lacuna left in the trial of the proceedings by remanding the proceedings to lead further evidence. The admissions given by the witness of the Zilla Parishad cannot be watered down by remanding the matter.

16 In the light of the above, these Writ Petitions, being devoid of merit are, therefore, dismissed.