

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2209 OF 2003

Divisional Controller,
Maharashtra State Road
Transport Corporation,
Division - Aurangabad.

..Petitioner

Versus

Sadarshan Daulat Misal
Shantipura, Cantonment,
Aurangabad, Deceased
Through L.Rs.
Vishrantibai w/o Daulatrao Misal
Age 70 years, R/o Shantipura,
Cantonment, Aurangabad.

..Respondent

WITH
WRIT PETITION NO.3026 OF 2004

Divisional Controller,
Maharashtra State Road
Transport Corporation,
Division - Aurangabad.

..Petitioner

Versus

Ashok Raibhan Rupekar
2/5/51, Kotwalpura,
Aurangabad.

..Respondent

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Advocate for Petitioners : Smt. R.D.Reddy

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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 14, 2018

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ORAL JUDGMENT:-

1. The petitioner is aggrieved by the common judgment

dated 13.11.2013, delivered by the Industrial Court in Complaint (ULP) Nos.204 of 1992 filed by the second respondent herein and 205 of 1992 filed by the first respondent in Writ Petition No.2209 of 2003. By the impugned judgments both the complainants have been granted status and privileges of permanent employees as Sweeper or in any Class IV employment from the dates of their complaints.

2. For the sake of brevity, the respondent in the first petition is referred to as Sadarshan and the respondent in the second petition is referred to as Ashok.

3. In so far as the first petition is concerned, this Court admitted the petition on 1.9.2003 and refused interim relief to the Corporation vide a reasoned order. Sadarshan has now passed away.

4. During the pendency of this petition the L.Rs. of Sadarshan approached the Industrial Court under Section 50 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act") by filing Misc. Application (ULP) No.6 of 2007. By its judgment dated 29.10.2013, the Industrial Court rejected the said proceedings on

two grounds. Firstly, that there was no evidence or succession certificate produced by the applicants to indicate that they are the legal heirs of deceased Sadarshan and secondly, since Sadarshan did not report for duties after this Court refused interim relief to the Corporation on 1.9.2003. The said judgment has not been challenged by the said L.Rs. in this Court, according to the information of the learned Advocate.

5. Considering the above and since deceased Sadarshan did not report for duties after the relief was granted to him by the Industrial Court, I find that this petition can be disposed off by observing that the L.Rs. of Sadarshan would not be entitled for any benefits from the day he has stopped reporting for duties.

6. The first petition is, therefore, disposed off in view of the observations of the Industrial Court in the above referred judgment dated 29.10.2013. The L.Rs. of deceased Sadarshan would not be entitled for any benefits from the date he has stopped reporting for duties. Legal dues if any, till the date he has worked, if not already paid, would be calculated by the Corporation and the said amount would be payable to the L.Rs. of the deceased Sadarshan if they approach the Corporation with an heirship / succession certificate.

7. Rule, in the first petition, is discharged.

8. In so far as second petition is concerned, Ashok is said to be in continuous employment of the Corporation, having joined duties with the Corporation in 1981. Learned counsel for the Corporation submits that he has continued in employment since this Court refused interim relief by order dated 3.8.2004.

9. Learned counsel for the Corporation strenuously submits that Ashok should not have been granted regularization in service since he did not possess the requisite qualification of I.T.I. This qualification was prescribed by a Circular of the Corporation from 16.11.1979.

10. I find from the record that Ashok had proved through evidence before the Industrial Court that he was working as a Sweeper and was doing the work of sweeping, washing and cleaning the S.T. buses. He used to receive his monthly wages as per the fixed charges directly from the Corporation. Ashok seems to be in employment for the past 37 years and must have approached his date of superannuation.

11. It is in the backdrop of the nature of the work Ashok performed, that the Industrial Court did not grant him the benefits as a helper and instead directed the Corporation to give him the status and privileges of the permanent employee either as a Sweeper or any Class IV employee's work.

12. It is settled law that a workman cannot be made to work on daily wages or as a temporary or as a casual, for decades together.

13. Considering the above, I do not find that the impugned judgment could be termed as perverse or erroneous in relation to the respondent Ashok. The Corporation shall render the benefits of regularization to Ashok on the basis of parity with similarly situated Sweepers / Class IV employees.

14. This petition is, therefore, disposed off. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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