

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

WRIT PETITION NO.10509 OF 2017
ALONG WITH
CONNECTED WRIT PETITIONS DISPOSED OF
VIDE JUDGMENT DATED 26.06.2018.

SHOBHABAI W/O RAOSAHEB MOKAL
VERSUS
THE COMMISSIONER, MUNICIPAL CORPORATION, AURANGABAD.

...
Advocate for the Petitioner : Shri Khandelwal Rajesh K..
Advocate for the Respondent : Shri Tope Sambhaji S..
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 13th July, 2018

Per Court:

1 This is a motion for speaking to the minutes of the judgment dated 26.06.2018 delivered in Writ Petition No.10509/2017 with connected petitions.

2 It is pointed out that erroneously Writ Petition No.9293/2017 was taken up by the Petitioners in the group of writ petitions, which were decided by the judgment dated 26.06.2018. This Writ Petition No.9293/2017 is on a different footing and cannot be a part of the said judgment.

3 The learned Advocate for the Respondent/ Corporation agrees with the submissions of the Petitioner.

4 As such, this motion is allowed. Writ Petition No.9293/2017 (*Sheetabai Bhagwan Gaikwad vs. The Commissioner, Municipal Corporation, Aurangabad*) is restored by deleting the said petition from the list of petitions covered by the judgment dated 26.06.2018. Correction be accordingly, carried out.

kps

(RAVINDRA V. GHUGE, J.)

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

WRIT PETITION NO.9293 OF 2017

SHEETABAI BHAGWAN GAIKWAD
VERSUS
THE COMMISSIONER MUNICIPAL CORPORATION AURANGABAD

...

Advocate for the Petitioner : Shri Khandelwal Rajesh K..

Advocate for the Respondent : Shri Tope Sambhaji S..

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 13th July, 2018

Per Court:

1 By consent of the parties, this petition is heard.

2 There is no dispute that identically placed Petitioners, who had suffered the orders of dismissal in default passed by the Labour Court, were before this Court in a group of petitions decided on 20.12.2016 in Writ Petition No.12096/2016 and others, by the judgment dated 20.12.2016. The orders of the Labour Court were set aside and the matters were restored to the file of the Labour Court at Aurangabad with certain directions set out in paragraphs 13 to 16 of the said judgment.

3 A group of similarly situated three Petitioners in Writ Petition No.9294/2017 and two others, has also been covered by an identical order of this Court dated 26.06.2018.

4 In the light of the above and in view of the reasons assigned in the judgment dated 20.12.2016 delivered in Writ Petition No.12096/2016, this Writ Petition is partly allowed. The impugned order dated 04.02.2013 dismissing Reference (IDA) No.271/2010 is quashed and set aside and the said reference case is restored before the Labour Court at Aurangabad.

5 The litigating sides shall appear before the Labour Court on 04.08.2018. The Petitioner shall file her Statement of Claim in her reference case on or before 24.08.2018. After receiving the copy of the Statement of Claim, the Respondent/ Corporation would file it's Written Statement on or before 14.09.2018. The Labour Court shall decide the reference case on it's own merits. In the event, the Petitioner succeeds in the reference case, she shall be deprived of all monetary benefits from the date of registration of her reference case before the Labour Court till 04.08.2018 for the lapses on her part due to which the reference case was dismissed earlier.

6 The Labour Court shall also keep in view the law laid down by the Honourable Supreme Court in the following four cases, if at all, compensation is to be quantified, considering the purported short span of employment followed by a long period of unemployment:-

(a) *Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal, [2013 LLR 1009];*

- (b) *Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh, [(2013) 5 SCC 136];*
- (c) *BSNL Vs. Man Singh, (2012) 1 SCC 558; and*
- (d) *Jagbir Singh Vs. Haryana State Agriculture Marketing Board, [(2009) 15 SCC 327].*

7 It be noted that the above observations of this Court are purely on the basis of law and would not mean that this Court is convinced about the merits of the claims of the petitioners. Needless to state, the Labour Court shall decide the reference cases on their own merits.

kps

(RAVINDRA V. GHUGE, J.)