

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

**Letters Patent Appeal No.184 of 2010
In
Writ Petition No.5793 of 2007**

- 1) Maharashtra Oilseeds Commercial
and Industrial Corporation Limited
(MOCICOL),
Through Managing Director,
C/o Maharashtra State Co-operative
Cotton Growers' Marketing
Federation, 198, Khetan Bhavan,
6th Floor, Jamshedji Tata Road,
Church Gate, Mumbai - 20.
- 2) Officer In charge,
Maharashtra Oilseeds Commercial
and Industrial Corporation Ltd.,
M.I.D.C. Plot No.B-4, Parbhani. .. **Appellants.**

Versus

- * Maroti Nagorao Kharbale,
Age 48 years,
Occupation : Service,
R/o Bhagyanagar,
Shikshak Colony,
Karegaon Road, Parbhani. .. **Respondent.**

Shri. Shivaji T. Shelke, Advocate, for appellants.

Shri. Ajay Deshpande, Advocate, for respondent.

With

Letters Patent Appeal No.185 of 2010
In
Writ Petition No.5795 of 2007

- 1) Maharashtra Oilseeds Commercial
and Industrial Corporation Limited
(MOCICOL),
Through Managing Director,
C/o Maharashtra State Co-operative
Cotton Growers' Marketing
Federation, 198, Khetan Bhavan,
6th Floor, Jamshedji Tata Road,
Church Gate, Mumbai - 20.
- 2) Officer In charge,
Maharashtra Oilseeds Commercial
and Industrial Corporation Ltd.,
M.I.D.C. Plot No.B-4, Parbhani. .. **Appellants.**

Versus

- * Yeshwant Devidas Kulkarni,
Age 60 years,
Occupation : Service,
R/o. C/o R.G. Kulkarni,
Dnyaneshwar Nagar,
Near Koregaon Naka,
A-78, Parbhani. .. **Respondent.**

Shri. Shivaji T. Shelke, Advocate, for appellants.

Shri. Ajay Deshpande, Advocate, for respondent.

With

Letters Patent Appeal No.186 of 2010
In
Writ Petition No.5794 of 2007

- 1) Maharashtra Oilseeds Commercial and Industrial Corporation Limited (MOCICOL),
Through Managing Director,
C/o Maharashtra State Co-operative Cotton Growers' Marketing Federation, 198, Khetan Bhavan,
6th Floor, Jamshedji Tata Road,
Church Gate, Mumbai - 20.
- 2) Officer In charge,
Maharashtra Oilseeds Commercial and Industrial Corporation Ltd.,
M.I.D.C. Plot No.B-4, Parbhani. .. **Appellants.**

Versus

- * Narendra Ambadasrao Deshpande,
Age 48 years,
Occupation : Service,
R/o Vrindavan Colony,
Parbhani. .. **Respondent.**

Shri. Shivaji T. Shelke, Advocate, for appellants.

Shri. Ajay Deshpande, Advocate, for respondent.

**Coram: T.V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

Date: 20 MARCH 2018

JUDGMENT (Per T.V. Nalawade, J.):

- 1) The appeals are filed to challenge the decisions given in three writ petitions by learned Single Judge of

this Court. In the writ petitions (Writ Petition Nos.5793/2007, 5794/2007 and 5795/2007) the judgments and orders of the Industrial Court Jalna in Complaint ULP Nos.139/2002, 140/2002 and 141/2002 were challenged. The learned Single Judge has dismissed the writ petitions. Both the sides are heard.

2) The respondents who had filed the complaints of unfair labour practices before the Industrial Court were working as daily rated employees with the appellant-Corporation. They were working for years together but regular pay scale was not being given to them. Then there was agreement between the said employees and the appellant-Corporation and one Committee called "Dr. Kinkar Committee" was appointed to consider the dispute. The Committee suggested staffing pattern and also gave suggestion to absorb the daily rated employees by creating supernumerary posts. The Committee also suggested the pay scales as per the natures of duty which these employees were discharging.

3) It is the case of the respondent-employees that they were doing clerical work and there was no post of Junior Clerk on the establishment of the appellant-Corporation. It is contended that there was post of Clerk and for that post there was pay scale of Rs.1200-30-1560-EB-40-2040. It is contended that even when there was such post available on the establishment of the Corporation, the respondents were designated as Junior Clerk and separate pay scale like Rs.825-15-900-EB-20-1200-25-1450 was given to them. It is the case of the respondents that there was discrimination against them. They claimed that they were entitled to be placed in the pay scale of Rs.1200-2040 like other employees who were doing clerical job and the appellant-Corporation had indulged in unfair labour practices by refusing the said scale to them.

4) Before the Industrial Court the report of the aforesaid Dr. Kinkar Committee was placed. This report is considered by the Industrial Court and also the resolution passed by the management of the appellant-Corporation was considered. The Industrial Court has held that the

Committee was appointed as per the agreement between the workmen and the management and there was specific report of the Committee that clerical posts were available on the establishment as per work available. Those posts could have been filled and the respondent-employees were doing clerical work like other regular clerical staff.

5) The submissions made for the appellant-Corporation and the record show that the management decided to give lowest pay scale to the present respondents which was being given to the staff working in the office. The scale of Rs.825-1450 was given by passing a resolution. Even signatures of these employees were obtained on the agreement to show that this scale was accepted by them. The record shows that there was no post of Junior Clerk on the establishment of the appellant-Corporation and the scale of Rs.825-1450 was not prescribed for the post of Clerk. It appears that the scale of Rs.1200-2040 was given to the Clerk though Dr. Kinkar Committee had proposed lower scale to the post of Clerk. It was open to the Corporation to give higher scale and it appears that on the pattern of 4th Pay Commission

the pay scale of Rs.1200-2040 was given. This scale was proposed for different posts by aforesaid Pay Commission but the appellant-Corporation preferred to give such scale to the clerical staff. That decision was taken by the appellant-Corporation. Every employee who was discharging the duty as Clerk was entitled to get that scale. It was not open to the appellant-Corporation to give other scale which was lower than the scale which the Clerks were receiving. Respondents were discharging the duty of Clerk. It was not open to the appellant to do such discrimination. All these aspects are considered by the Industrial Court and the learned Single Judge of this Court. The learned Single Judge has considered one more circumstance like giving of appointment to one S.R. Dhoot who was like the respondents and also to one V.D. Deshpande who was also like the respondents and to them the scale of Rs.1200-2040 was given by the Corporation. Thus there was no justification for the Corporation for giving lower scale. The persons who were equal to the present respondents were given the pay scale of Rs.1200-2040 in the year 1997. The procedure which was adopted for giving such appointments is also considered by the

learned Single Judge. This Court sees no reason to interfere in the decision given by the learned Single Judge. The Corporation has tried to create new nomenclature to justify the discrimination. In the result all the appeals stand dismissed.

Sd/-
(SUNIL K. KOTWAL, J.)

Sd/-
(T.V. NALAWADE, J.)

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