

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9294 OF 2017
SUNITA MACHHINDRA BORDE
VERSUS
THE COMMISSIONER MUNICIPAL CORPORATION
AURANGABAD

WITH

WRIT PETITION NO. 14412 OF 2017
SHAMBAI MITHU GURAV
VERSUS
THE COMMISSIONER MUNICIPAL CORPORATION
AURANGABAD

WITH

WRIT PETITION NO. 15394 OF 2017
MANIK SARJERAO CHANDANE
VERSUS
THE COMMISSIONER MUNICIPAL CORPORATION
AURANGABAD

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Advocate for Petitioners : Shri Khandelwal Rajesh K.
Advocate for Respondent : Shri Tope S.S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: June 26, 2018

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PER COURT :-

1. I have heard the learned counsel for the petitioners and on behalf of the respondent Corporation. Though I find that the strenuous contentions of Shri Tope, learned Advocate on behalf of the respondent deserve appreciation, this Court has delivered a judgment on 20.12.2016 in a group of cases in the matters of

Sangitabai Bhaskar Kamble and others Vs. The Commissioner, Aurangabad Municipal Corporation - Writ Petition No. 12096 of 2016 and other petitions. In identical set of facts, the reference cases of identically placed Safai Kamgar were dismissed in default by the Labour Court and this Court restored those reference cases, in order to afford those petitioners an opportunity of hearing. It is informed that after restoration, some of the cases have been dismissed and the references have been answered in the negative.

2. Considering the above, this petition is partly allowed in view of the reasons assigned in the judgment dated 20.12.2016. The impugned order dated 13.2.2013 dismissing the reference is quashed and set aside and Reference (IDA) No.119 of 2011 is restored before the Labour Court, Aurangabad.

3. The litigating sides shall appear before the Labour Court on 16.7.2018. These petitioners shall file their statements of claims in all these matters on/or before 31.7.2018. Upon receipt of the same, the respondent / Corporation shall file its written statements on/or before 31.8.2018. The Labour Court shall decide these reference cases on their own merits. In the event, these petitioners succeed in the reference cases, they shall be

deprived of all monetary benefits from the date of registration of their reference cases before the Labour Court till 16.7.2018 for the lapses on their part due to which the reference cases were dismissed earlier.

4. 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:-

1. Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub-Division, Kota Vs. Mohanlal [2013 LLR 1009],

2. Assistant Engineer, Rajasthan Development Corporation and another Vs. Gitam Singh [(2013) 5 SCC 136],

3. BSNL Vs. Man Singh [(2012) 1 SCC 558] and

4. Jagbir Singh Vs. Haryana State Agriculture Marketing Board [(2009) 15 SCC 327].

5. 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.

(RAVINDRA V. GHUGE, J.)

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