

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

WRIT PETITION NO.12844 OF 2018

Dattu s/o. Bhau Karale ..Petitioner

Vs.

The State of Maharashtra
and ors. ..Respondents

Mr. A.D.Sugdare, Advocate for petitioner

Mr. V.S.Badakh, AGP for respondents

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATE : DECEMBER 18, 2018

ORDER :

Mr.Sugdare, the learned counsel for the petitioner submits that, the petitioner was appointed as Muster Assistant in the year 1982. The petitioner had filed Complaint ULP No.193 of 1989 before the Industrial Court, Ahmednagar. The complaint was allowed and the respondents were directed to offer the status and privilege of permanency and consequently benefits from the date of filing of the complaint. The learned Counsel submits that the complaint was filed in the

year 1989. The petitioner seeks directions against the respondents to grant pensionary benefits. The petitioner was absorbed in the year 2004 with the Deputy Director of Land Records.

2. We have also heard the learned Assistant Government Pleader for respondents, who submits that the past service of petitioner cannot be considered in view of the scheme framed by the Government and approved by the Hon'ble Apex Court in the G.R. dated 01.12.1995 and subsequent G.R. of the year 1999.

3. It is not disputed that in this matter, the petitioner had approached the Industrial Court by filing complaint ULP. The said complaint is allowed and Industrial Court directed the present respondent/State to accord the complainant/petitioner herein status and privileges of permanency and consequential benefits from the date of filing of complaint. As the pensionary benefits are not being accorded, one of such complainants filed Writ

Petitions bearing Writ Petition No. 2946 of 1997, Writ Petition No. 2236 of 1997 and Writ Petition No. 2246 of 1997. The Division Bench of this Court partly allowed the said petitions and passed the following order.

1. In view of the Judgment and Order dated 08th April, 1997 passed by the learned Industrial Court, Solapur, for the purpose of considering the grant of pensionary benefits, the Petitioners shall be treated as Permanent Employees with effect from 01st October, 1988 till the respective dates of superannuation.

2. In case of the Petitioners who were already superannuated, it will be open for them to make a representation to the concerned Authorities for grant of pensionary benefits.

3. If such representation is made, same shall be decided as expeditiously as possible and preferably within a period of four months from the date on which the representations are made.

4. We make it clear that, apart from issuing directions regarding the date of permanent employment of the respective Petitioners, we have not examined the case of the Petitioners as regards the eligibility of pensionary benefits.

5. Rule is made partly absolute on both terms with no order as to costs.

4. The Special Leave Petition filed against the said judgment and order is also dismissed.

5. In the light of that, we adopt the same course as adopted by this Court in the above said Writ Petitions and pass the following order :-

1. In view of the Judgment and Order dated 29.12.1994 passed by the learned Industrial Court, Ahmednagar, for the purpose of considering the grant of pensionary benefits, the Petitioner shall be treated as Permanent Employee with effect from the date of his complaint i. e. from the date of

filing of his complaint ULPs till the respective dates of superannuation.

2. In case of the Petitioner who was already superannuated, it will be open for him to make a representation to the concerned Authorities for grant of pensionary benefits.

3. If such a representation is made, same shall be decided as expeditiously as possible and preferably within a period of four months from the date on which the representation is made.

6. We make it clear that, apart from issuing directions regarding the date of permanent employment of the Petitioner, we have not examined the case of the Petitioner as regards the eligibility of pensionary benefits.

7. The Writ Petition is disposed of. No costs.

[R.G. AVACHAT, J.]

[S.V. GANGAPURWALA, J.]