

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3927 OF 2002

(The Superintending Engineer and Irrigated Project, Irrigation Circle,
Sinchan Bhavan, Aurangabad and others Vs. Nana s/o Narayan
Yede)

Mr.P.N.Kutti, AGP for the petitioners.
Mr.R.T.Biradar, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)
DATE : 08/05/2019

PER COURT :

1. The petitioner Irrigation Circle and connected departments are aggrieved by the judgment of the Industrial Court, Aurangabad dated 30/07/2002 vide which Complaint (ULP) No. 291/1998 filed by the respondent/complainant, was allowed. His termination dated 13/03/2001, which was effected after 3 years of the pendency of the complaint, was set aside and as the Kalelkar Settlement was applicable, the Industrial Court had granted the benefits incidental and consequential to the Kalelkar Settlement.

2. The learned AGP, on behalf of the petitioners, submits that the respondent was not entitled to any benefits since he had not worked continuously for 240 days in each calendar year.

3. I do not find that the submissions of the learned AGP could be sustained for the reason that the Kalelkar Settlement has prescribed 5 years of consecutive daily wage employment, notwithstanding whether a daily wager completes 240 days in each calendar year. What is required is that he should be working as a daily wager for 5 consecutive years and he would then be taken on Converted Regular Temporary Establishment (CRTE). After 5 years of working on CRTE, he is absorbed on regular temporary establishment and he is entitled for all benefits as are prescribed under the Kalelkar Settlement.

4. Learned Advocate for the original complainant submits that pursuant to the orders of this Court dated 05/05/2016, in CA No.5938/2016, the respondent has already been taken on CRTE. Monetary benefits are not extended owing to the pendency of this petition.

5. The learned AGP has taken a ground that the Industrial Court could not have set aside the termination of the respondent dated 13/03/2001 as the jurisdiction to deal with the said termination would vest in the Labour Court under Item 1 of Schedule IV.

6. I find that the said submission is misconceived for the reason

that the respondent had lodged his complaint on 29/09/1998. He continued in employment till 13/03/2001. Only after the Industrial Court rejected his application for interim relief Exh.U-2 on 07/03/2001, that the petitioners disengaged the respondent. In the peculiar facts of this case and keeping in view that the impugned judgment is in operation for the last about 17 years, except the direction to be taken on CRTE pursuant to the order of this Court dated 26/11/2002, I do not find any reason to cause an interference and more so in view of the respondent having already been taken on CRTE.

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

8. It is made clear that the concerned Department would consider the case of the respondent strictly within the parameters of the Kalelkar Settlement and he would be entitled to all benefits incidental and consequential thereto.

9. In the event, the respondent has any grievance about any decision of the establishment in connection with his service conditions and the Kalelkar Settlement, he would be at liberty to avail of a remedy as may be permissible in Law.

(Ravindra V.Ghuge, J.)