

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7897 OF 2016

Uttam Baban Abhang
Age 46 years, Occ. Service
R/o Loni Khurd, Talegaon Road,
Tq. Rahata, Dist. Ahmednagar. ..Petitioner

Versus

1. Durwani Karmachari Sahakari
Patsanstha Maryadit, Shrirampur,
Telephone Bhawan, Tq. Shrirampur,
District Ahmednagar, through it's
Chairman.

2. The Secretary,
Durwani Karmachari Sahakari
Patsanstha Maryadit, Shrirampur,
Telephone Bhawan, Tq. Shrirampur,
District Ahmednagar. ..Respondents

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Advocate for Petitioner : Shri Barde Parag Vijay
Advocate for Respondents : Shri Natu Sharad V.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 05, 2019
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ORAL JUDGMENT:-

1. Heard the learned counsel for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final hearing.

4. On 27.7.2016, I had passed the following order:-

"1 The Petitioner is aggrieved by the order dated 03.03.2016 passed by the Industrial Court, Ahmednagar below Exhibit C-9 by which Complaint (ULP) No.199/2013 filed by the Petitioner/ Workman has been dismissed for the reason that it is rendered infructuous.

2 I have heard the learned Advocate for the Petitioner.

3 It is apparent that the case of the Petitioner in the said complaint was restricted only to the issues of claiming promotion and benefits incidental and consequential to promotion along with difference in wages. He has been subsequently terminated by order dated 09.01.2014 during the pendency of the complaint. By the impugned order, the Industrial Court has allowed the objection application Exhibit C-9 filed by the Respondent, concluding that the complaint is rendered infructuous.

4 Prima facie, I find that the impugned order could not have been passed by the Industrial Court since the termination of the Petitioner is an independent cause of action and does not in any way create any embargo on the jurisdiction of the Industrial Court to deal with the pending complaint.

5 Issue notice to the Respondents returnable on 23.08.2016. The parties to note that this matter is likely to be heard finally at the admission stage."

5. I have considered the strenuous submissions of the learned Advocate for the respondents. Contention is that the petitioner seeks the pay scale applicable to Central Government Employees when he is an employee of a Cooperative Society situated at Taluka Shrirampur and has nothing to do with the Central Government Pay Scales and Service conditions.

6. It is, therefore, submitted that deciding the ULP Complaint before the Industrial Court, would be a futile exercise.

7. The learned Advocate for the petitioner submits that the respondents have passed a resolution on 10.1.2006 making such pay scale applicable to the categories in which the petitioner is working. Merely because he has been terminated would not mean that he would not be entitled for the pay scale which remains unpaid, if it is eventually proved before the Industrial Court that he was entitled for such arrears of wages.

8. I find that the pending ULP Complaint No. 199 of 2013 will have to be decided by the Industrial Court in view of the cause of

action putforth by the petitioner as on date of the filing of the complaint. Whether he is terminated or not, would be inconsequential and would not be an impediment to his right for difference in wages, if such right is established in the complaint.

9. In view of the above, this petition is allowed. The impugned order dated 3.3.2016 passed below Exhibit C-9 stands set aside and Exhibit C-9 stands rejected. Complaint (ULP) No.199 of 2013 shall be restored to the file of the Industrial Court, Ahmednagar.

10. The parties shall appear before the Industrial Court on 30.9.2019 and formal notices need not be issued.

11. Rule is made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

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