

BDP-SPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6261 OF 2018**

1] The State of Maharashtra	)
Through the Secretary,	)
Revenue and Forests Department	)
Mantralaya, Mumbai – 400 032	)
	)
2] The Settlement Commissioner	)
of Land Records, Pune,	)
New Administrative Building,	)
Near Sadhu Vaswani Chowk, Pune	)
	)
3] The Deputy Director of Land	)
Records, Pune, New Administrative	)
Building, Near Sadhu Vaswani Chowk,	)
Pune.	)
	)
4] The Deputy Director of Land	)
Records, Nashik Region, Nashik.	)

V/s

1] Shri Balwant Raghu Nalawade,	)
R/at Post – Vadur, Taluka- Kagal,	)
District-Kolhapur.	)
	)
2] Shri Anaji Vasantrao Raaaoarane,	)
R/at Plot No.8, Vijaya Devane Colony	)
Radhanagari Road, Kolhapur-416002	)
	)
3] Shri Jahangir Gulab Jamadar,	)
R/at Post-Tisangi, Tal- Gagan Bavada,	)
District Kolhapur.	)
	)

- 4] Smt. Preenita Udayrao Desai,)
r/at Flat No.301, Prabhakar Residency)
Salokhe Nagar, Nr. Telephone Office,)
Devkar Panand, Kolhapur – 416012)
)
- 5] Shri Girish Sadashiv Ingle,)
R/at Plot No.15, Survey Colony,)
Saneguruji Vasahat, Radhanagari Road,)
Kolhapur)
)
- 6] Shri Parshuram Ramu Shinde,)
R/at Post Tung, Tal. Miraj,)
District – Sangli.)
)
- 7] Shri Rajendra Narayan Patwardhan,)
R/at Post Kumathe, Tal – Tasgaon,)
District – Sangli.)
)
- 8] Shri Vishwanath Narayan Kumthekar)
R/at Near Adalat Wada,)
At Post Metha, Tal- Metha,)
District – Satara.)
)
- 9] Shri Madhukar Shankar Gaikwad,)
r/at Flat No.50, Aroh Nisarg Colony,)
Vaj Nagar, Ahmednagar, District -)
Ahmednagar.)
)
- 10] Shri Anil Digambar Kharpe,)
R/at Ayodhya Nagar, Pipe Line Road,)
Savedi, Ahmednagar.)
)
- 11] Shri Vasant Prabhakar Nisal,)
R/at Kulshri Bunglow, Raghivir Colony,)
Upnagar, Nashik.)
)
- 12] Chandrakant Haribhau Sawant,)
R/at Post Savedi Gaon, Ganesh Chowk,)
)

Taluka & District Ahmednagar) Respondents.
(Original Applicants)

Mr. Y. S. Kochare, AGP for the Petitioners/State.

Mr. Sandeep Dere, Advocate for Respondent No.1.

**CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ.**

DATE: 25th FEBRUARY, 2019

ORAL JUDGMENT: (Per N. J. Jamadar, J.)

1] Rule. Rule is made returnable forthwith. With the consent of the counsels, petition is taken up for final hearing.

2] The State seeks to assail judgment and order dated 9/8/2017 passed by the Maharashtra Administrative Tribunal in Original Application No.1134 of 2016, whereby Tribunal declared that the Respondents (Original Applicants) erstwhile unpaid workers (unpaid copyist) were entitled for consequential benefits on par with similarly placed and already absorbed unpaid workers by the State Government in accordance with the Government Resolution dated 21st October,

1995 and 22nd October, 1996. It was further declared that the Original Applicants would be entitled to all consequential benefits which their counter-parts were entitled to including the retiral benefits and the benefits of Time Bound Promotion.

3] The state has assailed the aforesaid order on the principal ground that the original Applicants before the Tribunal were not covered by the Judgment and Order of the High Court in the case of *Shivshankar G. Jawanjale and Another vs. The State of Maharashtra and Others* in Writ Petition No.1944 of 1998 and companion Writ Petitions.

4] We have heard Mr. Khochare, learned AGP appearing on behalf of the State and Mr. Dere, learned Counsel appearing on behalf of Respondent No.1.

5] Though the litigation has a checkered history, yet the controversy at hand, lies in a narrow compass. The State Government in Revenue Department had appointed unpaid workers (unpaid copyist) for the work of providing certified copies of documents.

Initially, on 20th October 1992 in Original Application Nos.153 of 1991 and 1504 of 1991, the Maharashtra Administrative Tribunal passed certain directions regarding absorption of the unpaid copyist. Writ Petitions including, Writ Petition No. 1944 of 1998 (Shivshankar Jawanjal) came to be filed in this Court for absorption of the unpaid copyist as permanent/confirmed employees. This Court, by judgment and order dated 19th January 2007, declared that all unpaid candidates appointed till 12th February 1987, are eligible for regularization under the Scheme formulated vide Government Resolution dated 21st October 1995 and 22nd October 1996. The State Government carried the matter in appeal to the Supreme Court. However, the Supreme Court declined to interfere and dismissed the appeals (Civil Appeal No. 3090 of 2007 and connected matters). The unpaid copyist, who were appointed after 12th February 1987, had also challenged the aforesaid judgment. The Supreme Court was pleased to allow the appeals (Civil Appeal No. 4633 of 2007 and connected matters) and directed that the appellants' services be regularized in accordance with the Government Resolution dated 10th March 2005. Thus, all the unpaid workers' services were directed to

be regularized. The respondent No.2, in pursuance of the above judgment of the Supreme Court, issued an order on 31st May 2012 and appointed the applicants to Class-III post. Vide a Corrigendum dated 31st July 2012, it was provided the services rendered by the applicants as unpaid workers would not be counted for any purpose whatsoever. Thus the applicants had approached the learned Tribunal.

6] From the perusal of the impugned judgment and order, it becomes abundantly clear that the learned Tribunal has proceeded on the premise that the controversy sought to be raised on behalf of the State is already covered by the Judgment in the Case of ***Shivshankar G. Jawanjal*** (cited supra), which was upheld by the Hon'ble Supreme Court. The learned Tribunal laid stress on the following clause (d) of paragraph 21 of the judgment of the High Court in the said case, which read as under :

“(d) We also hold that the regularised Unpaid Candidates will be entitled for consequential benefits on par with similarly placed but already absorbed Unpaid Workers by the State Government consequent to the Resolutions dated 21/10/1995 and 22/10/1996.”

7] It is trite law that scope of interference in the order passed by the Tribunal by the High Court in its extra ordinary jurisdiction under Article 226 of the Constitution of India is very limited. No interference is warranted in the order passed by the statutory Tribunal by the High Court, unless it comes to the conclusion that the view taken by the Tribunal is either perverse or impossible one.

8] On the aforesaid premise, we have considered the material placed on record as well as the observations of the learned Tribunal. The observations of the learned Tribunal in para Nos. 15 and 16 clearly demonstrate that the issue is fully covered by the earlier judgment of this Court in the case of *Shivshankar G. Jawanjal* (cited supra). Para Nos. 15 and 16 of the said order of the Tribunal read thus:

“15. The above discussion must, therefore, have made it very clear and this bears repetition that the Clause (d) of the final order of the Hon'ble Bombay High Court, in Jawanjal's matter has not at all been disturbed by the Hon'ble Supreme Court, and therefore, that particular Clause will have to be given effect to its entirety,

and therefore, as I Indicated above, though both the sides at the Bar made extensive references to the various GRs and tried to canvass their respective cases, it bears repetition that no GR can deviate from the mandate of the Hon'ble Constitutional Courts and that is more so because they claimed that they thereby wanted to effectuate the said directions. I am very clearly of the opinion that this controversy is capable of being resolved with the guidance of the Judgment of the Hon'ble Bombay High Court and the Hon'ble Supreme Court. Consequently, therefore, the Applicants would be entitled to the service benefits with effect from 01/06/1996 including retiral benefits and the benefits of Time Bound Promotion exactly in the same way as per Clause (d) of the order of the Hon'ble Bombay High Court in Jawanjali's matter. The final order herein will be in the same line."

"16. It is held and declared that the Applicants would be entitled for consequential benefits on par with similarly placed and already absorbed unpaid workers by the State Government in

accordance with the GRs of 21.10.1995 and 22.10.1996. The Applicants would be entitled to all the consequential benefits which their counter parts earlier were entitled to including the retiral benefits and the benefits of Time Bound Promotion. It is recorded that the pay, increments have already been given to them. The Respondents are directed to comply herewith within a period of four months from today. The Original Application is allowed in these terms with no order as to costs.”

9] On examination, we have found that the Applicants who were unpaid workers, were appointed as far back as in 1986. This position is rather indisputable. Once it is found that the applicants were appointed prior to 12th February 1987, they deserve the grant of the same benefits which were granted to the unpaid copyists in ***Shivshankar G. Jawanjal*** (cited supra), in all respect. Moreover, even if they were assumed to have been appointed after 12th February 1987, in view of the orderr of the Supreme Court in the case of ***Yashwant Arjun More & Ors.*** (Civil Appeal No. 4633 of 2007 and connected matters), they are entitled to similar benefits. Thus,

from the material placed on record, we do not find that there is any dissimilarity between the Applicants and their counter-parts who were covered by the Judgment of the High Court in the case of ***Shivshankar G. Jawanjal*** (cited supra). In this view of the matter, there does not seem to be any justifiable reason not to give same dispensation which was given to the counter-parts of the Applicants in pursuance of the earlier order passed by this Court which was upheld by the Hon'ble Supreme Court.

10] We are, therefore, not inclined to interfere with the impugned order passed by the Tribunal. We find that the Writ Petition is unworthy of being entertained. Hence, the Petition stands dismissed. Rule is discharged.

(N. J. JAMADAR, J.)

(B. R. GAVAI, J.)