

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5009 OF 2002

The Conservator of Forests and anr.	.. Petitioners
Vs.	
Shri Shriniwas Rama Waghmare	.. Respondent

Mrs.V.S.Nimbalkar, AGP for State - Petitioners.
Mr.Yogendra Pendse, for Respondent.

CORAM : M.S.KARNIK, J.

DATE : 26th MARCH, 2019

P.C. :

. At the outset, it is pointed out that in the present
Petition, the name of the respondent is mentioned as Shriniwas
Rama Waghmare. My attention is invited to page 20 of the
paper-book where name of the respondent is again reflected as
Shriniwas Rama Waghmare. Learned AGP has produced on
record certified copy of the Complaint (ULP) No. 195 of 2000
filed before the Industrial Court at Nashik where the name of
the Complainant is recorded as Vishwas Rama Waghmare.

Even at item 70 at page 20 of the paper-book, the number of the complaint is recorded as Complainant (ULP) No. 195/2000. From this, it is obvious that there is typographical mistake in the cause title. The respondent - workmen concerned is obviously Vishwas Rama Waghmare. Learned AGP is permitted to carry out necessary corrections in the cause title.

3. Leave to amend. Amendment to be carried out forthwith and add name as ' Vishwas Rama Waghmare' instead of 'Shriniwas Rama Waghmare'.

4. Learned AGP has tendered an affidavit dated 06/02/2009 affirmed by Rajendra Appaji Kapse, Assistant Conservator of Forest, Manmad East, Nashik Division wherein it is stated as under :

2. I say that the Petition has challenged the order passed by the Industrial Court, Nashik on 11.12.2001 whereby the Industrial Court, has directed the Petitioner to regularise the Respondent in services and grant them benefits of permanency in the category of Class IV employees by taking necessary sanctioned from the Government within six months from the date of order and consequential benefits to be given w.e.f. 1.12.2001 and further directed to maintain the seniority of Respondent in all respects by rectifying the mistake, if any.

The said aboversaid writ petition has been admitted by this Hon'ble Court (Coram-- D.K.Deshmukh, J) on 16.8.2002 and thereby prayer clause (c) has been granted.

3. I say that during the pendency of these writ petitions, the Revenue and Forest Department, has issued the Government Resolution dated 16.10.2012 and guidelines were issued for regularization of the employees/daily wage workers who were working in the forest department prior to the year 2004. hereto annexed and marked as Exhibit 1 is copy of the Government Resolution dated 16.10.2012.

4. I say that as per the Government Resolution dated 10.5.2018, the Respondent has been absorbed in the Government service on 22.10.2018 as per the appointment order given by the Deputy Conservator of Forests, East Division, Nashik. Hereto annexed and marked as Exhibit 2 Colly. are the copies of Government Resolution dated 10.5.2018 and appointment order dated 22.10.2018.

5. I say that at the time of accepting the order dated 22.10.2018, he has given Undertaking that he will not claim any benefits granted by the Industrial Court and he will abide by all the terms and conditions of the appointment order. Hereto annexed and marked as Exhibit 3 is the copy of Undertaking given by the Respondent dated 19.6.2018.

6. I say that in the light of the abovementioned facts and circumstances and in view of the facts that the Respondents have already accepted the appointment orders as per terms and conditions mentioned in Government Resolution dated 10.05.2018 and they have given Undertaking that they will not claim any benefits granted by the Industrial Court.

I say and submit that in view of the Undertaking given by the Respondents, the orders passed by the Labour Court and Industrial Court, does not survive and hence, the Hon'ble Court may be pleased dispose of the present writ petitions by passing appropriate order in the interest of justice."

5. Another affidavit dated 05/03/2019 is filed on behalf of the petitioner affirmed by Shri Sujit Namdev Nevase,

Asst. Conservator of Forest, East Division, Nashik relevant portion of which reads thus :

2. I say that, the Advocate for Respondent had raised query on 13.2.2019 that whether the Respondent is entitled to the pensionary benefits from 01/06/2012 and whether he is entitled for difference of wages in which period he had worked after 01/06/2012.

3. I say that, as per the guidelines issued in Government Resolution dated 16/10/2012 and dated 10/05/2018 the Respondent has been absorbed in the Government service on 15/06/2018. I say that as per the guidelines issued in the Government Resolution dated 16/10/2012, after resuming duties the Respondent is entitled to get pensionary benefits from 10/06/2012.

4. I say that, the present Respondent had not worked with the department from 1/6/2012 to 15/06/2018, as a daily wager and hence, he is not entitled for any difference in the wages.”

The statements made in the affidavits are accepted. In this view of the matter, nothing further survives for consideration and the orders passed by the Court below stand suitably modified in terms what is stated in the affidavits.

6. Writ Petition is disposed of. Rule is partly made absolute in the above terms.

(M.S.KARNIK, J.)