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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 8074 OF 2006**

The State of MaharashtraPetitioners
and another

V/s.

Shamrao Durgappa PawarRespondent

WITH
CIVIL APPLICATION NO. 500 OF 2019
IN
WRIT PETITION NO. 8074 OF 2006

Shamrao Durgappa PawarApplicant

BETWEEN

The State of MaharashtraPetitioners
and another

V/s.

Shamrao Durgappa PawarRespondent

Mr. S. S. Panchpor AGP for the petitioner
Advocate Jotiram K. Jadhav a/w Adv. Lengare Y. B. for respondent
no. 1

CORAM : NITIN W. SAMBRE, J.

DATE : AUGUST 1, 2019.

P.C.

This petition is by the State Government questioning the validity of the Judgment and Order dated 25/07/2006 passed by the learned Industrial Court, Sangli in Complaint (ULP) No. 24 of 2003. Respondent preferred said complaint alleging that he was a working as a 'Muster Assistant' w.e.f. 02/01/1985 and his services came to be terminated on 06/06/1992. Accordingly, he prayed that his termination be set aside and he be granted reinstatement.

2 Complaint preferred by the respondent-employee came to be disposed by the learned Industrial Court vide its order dated 25/07/2006 with following observations:

“O R D E R

- 1) *The Complaint is allowed.*
- 2) *It is hereby declared that the Respondents have engaged in unfair labour practice under item – 9 of*

Schedule-IV of the 'MRTU AND PULP ACT, 1971' by not implementing the Order passed by the Labour Court, Sangli on 31/08/1994 in Complaint (U.L.P.) No. 235/92.

- 3) *It is hereby directed that the Respondent shall cease and desist from indulging in the aforesaid unfair labour practice.*
- 4) *It is hereby directed that the Respondent shall pay wages payable to the post of 'Muster Assistant' to the Complainant for the period from 24/07/2003 to 25/07/2006 i.e. from the date of filing the present Complaint till the date of this decision.*
- 5) *It is further directed that the Respondent shall continue to pay wages of 'Muster Assistant' to the Complainant in future also as and when the work would be allotted to the Complainant as per the above mentioned Order of the Labour Court, Sangli.*
- 6) *The Order of payment of wages for the period from 24/07/2003 till 25/07/2006 shall be implemented within the period of three months from to day, failing which the Complainant shall be liberty to take appropriate steps in accordance with Law for getting the said Order implemented.*
- 7) *Under the circumstances, the Parties shall bear their own costs”.*

3 It appears that while questioning aforesaid order before this Court, this Court was informed that petitioners are in the process of preparing common seniority list of Muster Assistants in the State of Maharashtra and as per seniority, respondent will be granted all benefits after the said process is finalised. As a consequence of above, on 13/04/2007, this Court passed following order:

“Rule.

Returnable in eight weeks.

Ad-interim order to continue.

The petitioner is directed to file an affidavit explaining the position of the respondent in the seniority list of Master Assistant and steps taken by the petitioner in relation to the respondent while implementing orders passed by the Supreme Court approving a scheme of regularization of Muster Assistants”.

4 It appears that subsequent to aforesaid developments, State Government implemented the scheme approved by the Apex Court. To be more precise, in Division Bench Judgment of this Court passed on 12/10/2018, it is observed that, Muster Assistants who were employees subsequent to respondent and whose services were

terminated prior to date of termination of the services of the respondent were already absorbed.

5 An appropriate support to that effect can be drawn from the observations made by this Court in Writ Petition No. 8908 of 2015 with connected matters decided on 12/10/2018.

6 The fact remains that State Government is acting in a discriminatory manner having been regularised service of Muster Assistants who are similarly placed with that of respondent. Rather on facts the case of the respondent is better placed than that of one who are granted relief in aforesaid Division Bench Judgment, thereby granting regularisation to such employees who were junior to the respondent.

7 In the aforesaid background, in my opinion, petition lacks merit, stands dismissed.

8 Needless to say, the order of Industrial Court be implemented

by the petitioner as expeditiously as possible and in any case within period of 3 months from today. It is clarified that no further extension will be granted having regard to discriminatory approach of the petitioner-State.

9 In view of dismissal of petition, Civil Application also stands disposed of.

[NITIN W. SAMBRE, J.]