

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**WRIT PETITION NO.524/2019**

The Secretary to Govt. Rural Development and Soil Conservation Department,  
 through Principal Chief Conservator of Forests, Nagpur and others

..Vs..

Ramchandra S/o Babanrao Wadatkar and others

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 Office Notes, Office Memoranda of Coram,  
 appearances, Court's orders of directions  
 and Registrar's orders  
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Court's or Judge's orders

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 Shri V.P. Maldhure, A.G.P. for the petitioners.  
 Shri N.Y. Thengre, Advocate for respondent Nos.1 to 6.

**CORAM : Z.A. HAQ, J.**

**DATE : 24.1.2019.**

On oral request made by the learned A.G.P.,  
 leave to amend prayer clause is granted.

Heard.

The respondent No.1 was in employment with  
 the petitioners since 15<sup>th</sup> December, 1985, the  
 respondent No.2 was in employment since 4<sup>th</sup> October,  
 1984, the respondent No.3 was in employment since 15<sup>th</sup>  
 January, 1985, the respondent No.4 was in employment  
 since 7<sup>th</sup> September, 1982, the respondent No.5 was in  
 employment since 7<sup>th</sup> September, 1982 and the  
 respondent No.6 was in employment since 7<sup>th</sup> September,  
 1983. The respondent Nos.1 to 6 had filed complaint  
 ULP No.523/1996 before the Labour Court complaining  
 that their services were illegally terminated. Initially the  
 complaint was filed before the Labour Court at Nagpur,  
 however, on constitution of Labour Court at Wardha, the  
 complaint was transferred to Labour Court Wardha. The

Labour Court decided the complaint on 3<sup>rd</sup> August, 2005 and directed the employer to reinstate the respondent Nos.1 to 6 with continuity of service. This order was challenged by the employer (present petitioners) before the Industrial Court in Revision ULP No.187/2005. As the Labour Court had rejected the claim of the respondent Nos.1 to 6 for back-wages, the complainants had also filed Revision No.195/2005. Both these revisions were dismissed by the Industrial Court by order dated 7<sup>th</sup> February, 2009. The employer (present petitioners) had filed Writ Petition No.5560/2009 before this Court which was dismissed on 5<sup>th</sup> March, 2010. In the order dated 5<sup>th</sup> March, 2010 this Court recorded that the findings given by the Labour Court that juniors to the present respondent Nos.1 to 6 were retained were not challenged by the employer and those findings had attained finality. In spite of the fact that the claim of the respondent Nos.1 to 6 was maintained up to this Court, they were not reinstated and they were required to approach the Labour Court again under Section 48 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. These proceedings were also opposed on various technical grounds and ultimately a settlement was arrived at before the Lokadalat on 6<sup>th</sup> February, 2011 and the respondent Nos.1 to 6 were reinstated on 7<sup>th</sup> February, 2011. After reinstatement, the respondent Nos.1 to 6 were not given benefits as per the order passed by the Labour Court in the earlier round of litigation and,

therefore, the respondent Nos.1 to 6 again approached the Industrial Court under Section 28 read with Items 5, 9 and 10 of Schedule IV of the Act of 1971. This complaint is dismissed by the Industrial Court by the impugned order.

The contention of the petitioners is that the Industrial Court has committed an error by upholding the claim of respondent Nos.1 to 6 for monetary benefits at par with the other employees whose services are regularized. It is submitted that those employees who are regularized earlier had been in employment on 19<sup>th</sup> October, 1996 and, therefore, their claim for regularization is considered as per the government resolution dated 19<sup>th</sup> October, 1996. According to the petitioners, the respondent Nos.1 to 6 were not in employment with the petitioners on the date on which the government resolution dated 19<sup>th</sup> October, 1996 was issued and, therefore, they cannot claim benefit of that government resolution. This submission made on behalf of the petitioners cannot be accepted. The Labour Court, while allowing the complaint ULP No.29/1996 filed by the respondent Nos.1 to 6 held that the complainants were entitled for reinstatement with continuity of service. As recorded earlier, the respondent Nos.1 to 6 had been in employment with the petitioners for more than a decade prior to 19<sup>th</sup> October, 1996. The Industrial Court has rightly held that the respondent Nos.1 to 6 are entitled for the monetary benefits at par with their junior employees whose services were regularized as per the

government resolution dated 19<sup>th</sup> October, 1996.

After examining the material placed on record, hearing learned A.G.P. for the petitioners and the learned Advocate for the respondent Nos.1 to 6, and going through the impugned order, I find that the Industrial Court has dealt with all the relevant aspects. It cannot be said that the impugned order suffers from any illegality or perversity which necessitates the interference by this Court in the extra-ordinary writ jurisdiction.

It is submitted that the respondent Nos.2, 3, 5 and 6 have surpassed the age of superannuation. Obviously, they will be entitled for the monetary benefits till the date on which they would have retired on attaining the age of superannuation, and also for retirement benefits as made available to the other employees whose services were regularized as per government resolution dated 19<sup>th</sup> October, 1996.

The petitioners shall make available to the respondent Nos.1 to 6 all the benefits till 15<sup>th</sup> March, 2019, failing which the petitioners will be liable to pay interest on the amount receivable by each of the respondent at the rate of 9% per annum, the interest being chargeable from 1<sup>st</sup> September, 2005 till the amount is paid to the respondents or is deposited before the Industrial Court.

Considering the facts of the case, specially that the respondent Nos.1 to 6 are required to litigate for their legitimate claim before various Courts for more than two decades, the petitioners shall pay costs of

Rs.20,000/- to each of the respondent Nos.1 to 6. This amount shall be paid and affidavit of compliance be filed on record of this petition till 15<sup>th</sup> May, 2019. The petition is **dismissed**.

JUDGE

*Tambaskar.*