

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.10809 OF 2014

Santosh Sudhakar Sathe,
Age : 27 years, Occ. Labour,
r/o. Belpimpalgaon, Tq.Newasa,
Dist. Ahmednagar

..Petitioner

Vs.

The State of Maharashtra,
Through Secretary,
Public Works Department,
Mantralaya, Mumbai
and ors.

..Respondents

Mr.P.M.Barde, Advocate for petitioner
Mr.A.B.Chate, AGP for respondent nos.1 to 3
Mr.A.N.Sikchi, Advocate for respondent no.4

**CORAM : R.G. AVACHAT, J.
DATE : FEBRUARY 02, 2021**

PER COURT :-

The challenge in this Writ Petition is to the order dated 26.09.2013 passed by learned Member, Industrial Court, Ahmednagar, in Complaint (ULP) No.35 of 2007.

2. Respondent no.1 is State of Maharashtra in Public Works Department. Respondent nos.2 and 3 are officials of

respondent no.1. Respondent no.4 is stepmother of the petitioner. Late Sudhakar Sathe was in employment as a labour with the office of Executive Engineer, Public Works Department, Ahmednagar. Sudhakar died on 13.04.1992. Original complainant no.1 – Alka and respondent no.2 herein are stated to be widows of late Sudhakar. Present petitioner is son of original complainant no.1 born by late Sudhakar. On the death of Sudhakar, respondent no.4 herein filed a suit for partition of all the properties of late Sudhakar, including the amount payable under provident fund, gratuity and other service benefits. The suit was compromised between original complainant no.1 and present respondent no.4. According to the petitioner, as per the compromise, the amount payable as provident fund, gratuity, family pension, etc., were to be shared equally by original complainant no.1 and present respondent no.4. Since present petitioner was minor, it was agreed that on his attaining majority, he would move an application for appointment on compassionate ground.

3. The petitioner, on attaining majority, moved respondent no.3 for grant of benefit in terms of the compromise decree. Respondent no.3 informed the petitioner that no employment could be given on compassionate ground since the application has been moved late. So far as regards family pension is concerned, it was informed that the same has been sanctioned in favour of respondent no.4 in terms of Rule 116 of the Maharashtra Civil Services (Pension) Rules, 1982. The petitioner, therefore, moved a complaint (ULP) to the Industrial Court, Ahmednagar. On hearing the parties, learned Member, Industrial Court pleased to dismiss the complaint as he found the petitioner to have failed to prove the respondents to have indulged in unfair labour practice. Learned counsel for the petitioner (original complainant no.2) is, therefore, before this Court.

4. Learned counsel for the petitioner would submit that respondent nos.1 and 2 authorities ought to have respected the compromise decree passed in the Civil Suit. The petitioner herein should have been given appointment on compassionate

ground. Failure to comply with the terms of compromise is nothing but an unfair labour practice.

Learned APP would, on the other hand, support the impugned order.

5. Late Sudhakar Sathe was in the employment with the Public Works Department. He died on 13.04.1992. According to the petitioner, deceased – Sudhakar has two wives namely, respondent no.4 herein and original complainant no.1. The petitioner is son of complainant no.1 born by deceased – Sudhakar. Respondent no.4 filed the suit for partition of the properties left behind by deceased - Sudhakar. The suit was compromised. As per the terms of compromise, respondent no.4 was to receive family pension. The petitioner was to move an application for appointment on compassionate ground. Since late Sudhakar was in service of State of Maharashtra, the entitlements to his service benefits would necessarily be governed by the concerned Civil Services Rules. The application of the petitioner for appointment on compassionate ground has been turned down as having been moved very late. Moreover,

his mother i.e. complainant no.1 is not before this Court. The relief, as regards share in the family pension could not be granted, since it would be governed by Rule 116 of Maharashtra Civil Services (Pension) Rules.

6. Learned Member, Industrial Court, has rightly observed the complainants to have failed to prove the respondent nos.1 to 3 to have indulged in unfair labour practice. No interference is, therefore, called for with the impugned order.

7. The Writ Petition is dismissed.

[R.G. AVACHAT, J.]

KBP