

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

LETTERS PATENT APPEAL NO.117/2013 IN
WRIT PETITION NO.368/2012(D)

AND

LETTERS PATENT APPEAL NO.146/2013 IN
WRIT PETITION NO.1179/2012(D)

LETTERS PATENT APPEAL NO.117/2013

Pandurang s/o Gulabrao Battinwar (since dead through LRs)

1. Smt. Kalpana wd/o Pandurang Battinwar,
aged about 42 years.
2. Krushnakumar s/o Pandurang Battinwar,
aged about 21 years.
3. Ku. Rashmi d/o Pandurang Battinwar,
Aged about 19 years.
4. Ankit s/o Pandurang Battinwar,
Aged about 16 years, Minor, through natural guardian
Mother Smt. Kalpana wd/o Pandurang Battinwar.

All residents of Plot No.9, S.B.I.Colony,
Sneh Nagar, Wardha Road, Nagpur.**APPELLANTS**

...VERSUS...

1. Maharashtra State Road Transport Corporation,
through its Works Manager, Central Workshop,
M.I.D.C. Hingna Road, Nagpur.
2. Member, Industrial Court,
Civil Lines, Nagpur. ... **RESPONDENTS**

AND

LETTERS PATENT APPEAL NO.146/2013

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Sneh Nagar, Wardha Road, Nagpur.**APPELLANTS**

..V E R S U S..

1. Maharashtra State Road Transport Corporation,
through its Works Manager, Central Workshop,
M.I.D.C. Hingna Road, Nagpur.

... **RESPONDENT**

Shri M.B.Joshi, Advocate for appellants in both the appeals.
Shri R.S.Charpe, Advocate for respondent no.1 in both the appeals.

CORAM : A.S.CHANDURKAR and G.A.SANAP, JJ.

DATED : 14th October, 2021

ORAL JUDGMENT (Per A.S.Chandurkar, J.)

The challenge raised in these Letters Patent Appeals is to
the judgment dated 14.03.2013 delivered in Writ Petition

No.368/2012 by which the order passed by the Industrial Court in the complaint preferred by the original appellant has been modified and it has been directed that the original appellant be brought on time scale subject to satisfying the conditions prescribed in Resolution No.8856 dated 31.08.1978 along with Clause -19 of 1985 Settlement.

2. Letters Patent Appeal No.146/2013 arises out of the adjudication in Writ Petition No.1179/2012 by which the original appellant was seeking monetary benefits on completion of 180 days continuous service. This writ petition has been dismissed for the reasons recorded in Writ Petition No.368/2012

3. The facts in brief are that the original appellant was appointed as Peon on daily wages in 1994 with Maharashtra State Road Transport Corporation (for short, the Corporation). His services were transferred from Aurangabad to Nagpur in the year 1996. He was brought on time scale and granted benefits on that basis from 14.03.2004. According to the original appellant, he was entitled to be brought on time scale on completion of 180 days continuous service in 1994. He therefore approached the Industrial Court by filing a complaint. The Industrial Court on 09.04.2010 allowed the complaint and directed the Corporation to bring the original

appellant on time scale on completion of 180 days continuous service. Being aggrieved the Corporation challenged this order by filing Writ Petition No.368/2012. The original appellant filed Writ Petition No.1179/2012 seeking monetary benefits from 01.11.1996. Writ Petition No.368/2012 has been partly allowed by granting the benefit of time scale subject to satisfying the requisite conditions while Writ Petition No.1179/2012 has been dismissed. Hence these appeals.

4. Shri M.B.Joshi, learned counsel for the appellants submits that the original appellant having completed 180 days continuous service in 1994 itself, he was entitled to be brought on time scale thereafter. The Corporation however denied him this benefit without any basis thus resulting in an unfair labour practice. It was his submission that other similarly situated employees were granted such benefits but the same were denied to the original appellant. The Industrial Court having rightly held that the appellant was entitled to such benefit on completion of 180 days continuous service, he ought to have been granted monetary benefit from 01.11.1996. The learned Single Judge was not justified in modifying the order passed by the Industrial Court. He therefore submitted that the order passed by the Industrial Court be restored and monetary benefits be granted from

01.11.1996. In support of his submissions he placed reliance upon the decision in *Maharashtra State Road Transport Corporation Vs. Kishore Kondiram Jagade and Ors. 2005 (4) MhL.J.798*

5. Shri R.S.Charpe, learned counsel for the respondent-Corporation supported the impugned order passed by the learned Single Judge. According to him mere completion of 180 days of continuous service was not sufficient and it was necessary to satisfy the conditions as prescribed by Resolution No.8856 dated 31.08.1978 and Clause 19 of the 1985 Settlement. He submitted that this position is well settled in view of the judgment of the Hon'ble Supreme Court in *Maharashtra State Road Transport Corporation Vs. Premlal 2007 (9) SCC 141* . This decision was subsequently followed in various other proceedings before this Court. Hence the learned Single Judge rightly modified the order passed by the Industrial Court on aforesaid lines.

6. We have heard the learned counsel for the parties and we have perused the material on record. In the complaint the only pleadings as made are that the appellant having completed continuous service of 180 days, he was entitled to be brought on time scale thereafter. Since he was brought on time scale on 14.03.2004,

the same resulted in an unfair labour practice. These are the only averments that can be found in the complaint. In the written statement, it has been pleaded that mere completion of 180 days continuous service is not sufficient for grant of time scale. As the appellant was selected by the Selection Committee in the year 2004, he has been brought on time-scale from dated 14.03.2004. It is found that the Industrial Court disregarding Resolution No.8856 as well as Clause 19 of 1985 Settlement directed the services of the original appellant be brought on time scale only on completion of 180 days continuous service. The learned Single Judge however directed the services of the appellant to be brought on time scale subject to satisfying the prescribed conditions. This modification was after noticing the judgment of the Hon'ble Supreme Court in *Premalal* (supra) and other orders passed by this Court. There is no error therefore in modifying the order passed by the Industrial Court.

7. As regards the submission of the learned counsel for the appellant that the benefit of time scale was given to other employees, the same is not pleaded in the complaint. There is no material on record to substantiate this contention which has rightly not been gone into by the Court. It is an admitted position that from 14.03.2004 the original appellant has been brought on time scale.

8. In view of aforesaid, we do not find any error in modifying the order passed by the Industrial Court and holding the original appellant entitled to be brought on time scale subject to satisfying the requisite conditions. For the aforesaid reasons, both Letters Patent Appeals stand dismissed with no orders as to costs.

JUDGE

JUDGE

Andurkar..