

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2039 OF 2020

Jivraj S/o Dagdu Gitte

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr. K. N. Shermale, Advocate for the petitioner.

Mr. S. G. Sangle, AGP for respondent/State.

Mr. A. B. Dhongade, Advocate for respondent Nos. 2 to 4.

WITH

WRIT PETITION NO. 6701 OF 2022

Bharat S/o Manikrao Autade

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr. K. N. Shermale, Advocate for the petitioner.

Mr. S. G. Sangle, AGP for respondent/State.

Mr. A. B. Dhongade, Advocate for respondent Nos. 2 to 4.

**CORAM : RAVINDRA V. GHUGE &
ANIL L. PANSARE, JJ.**

DATE : 30th JUNE, 2022.

PER COURT :

1. There is no dispute amongst the learned counsel for the respective sides that these two petitioners are identically placed and

their petitions could have been taken up when the order dated 28th March, 2022 was passed by this Bench in Writ Petition No. 3227/2021, filed by Kacharu Kakasaheb Pandit vs. The State of Maharashtra and others, to which one of us (Ravindra V. Ghuge, J.) is a party.

2. One out of these two petitions could not be taken up earlier as it was listed before an another Bench.

3. In view of the above, both these petitions are similarly allowed akin to the order dated 28th March, 2022 and, therefore, we are issuing the same directions as follows :-

A) The termination orders impugned in these petitions stand quashed and set aside.

B) The petitioners shall tender individual affidavits declaring that since the date of their termination till today, they have not been in gainful employment. Therefore, the MSRTC shall initiate steps for payment of salaries to those petitioners, who have given such declarations.

C) The MSRTC shall initiate appropriate steps as are permissible in law and allot the work to these petitioners on any alternate job, within four months from today.

D) Salaries of these petitioners from today till the decision is taken by the MSRTC within four months, shall be paid on month to month basis as per their last drawn salary.

E) Since the Divisional Controller, MSRTC, Beed has highhandedly issued the termination orders in Writ Petition No. 6701/2020, despite the judgment delivered at the Principal Seat on 16.07.2020 and the judgment delivered by the Division Bench in *vishnu Shahurao Bangar* (supra), we find it appropriate to saddle the Divisional Controller, MSRTC, Beed, occupying the position on the date of termination of these petitioners, to pay costs of Rs. 5,000/- (Rupees Five Thousand) to the petitioner, only in Writ Petition No. 6701/2020, since the impugned order in the earlier petitions was passed before the pronouncement of this Court on 10th January, 2017, from his salary account, in two equated monthly installments beginning from August, 2022 and ending with the salary payable in September, 2022.

F) In the event, these petitioners are found to have engaged in gainful employment elsewhere during the period of their termination, they would not be entitled for

that portion of the amount which they have earned while being in gainful employment and the said portion would be deducted from the total backwages payable to them for the period of their unemployment.

(ANIL L. PANSARE)
Judge

(RAVINDRA V. GHUGE)
Judge

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