

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

Writ Petition No. 1004 of 2004

Krishi Utpanna Bazar Samiti
Yavatmal, through its Chairman,
Taluka & District : Yavatmal.

... Petitioner

... Versus ...

(1) Govinda Suryabhanji Raut,
aged 38 years, occupation nil,
r/o Yavatmal.

(2) Baburao Balaji Kadam,
aged 39 years, occupation : nil,
r/o Chondhi, post Karalegaon,
taluka Babhulgaon,
district : Yavatmal.

Since deceased Through LRS

Amended as per Court order dtd. 7-10-2019

2(1) Smt. Pramila W/o Baburao Kadam {wife}
Aged : 69 Yrs.

2(2) Shri Kishor S/o Baburao Kadam,
Aged : 45

2(3) Shri Avinash S/o. Baburao Kadam
Aged : 42

2(4) Sau. Maya W/o. Krushnarao Shirsat
Aged : 45,
All R/o. Sahyadhri Nagar, Behind Waghapur Tekdi,
Chowsala Road, Yavatmal.

2(5) Sau. Chaya W/o. Anantrao More,
Aged : 46 Yrs., R/o. Gharfal,
Tal. Babulgaon, Dist. Yavatmal

Amended
as per
Court
order dtd.
4-12-2020

2(4) Sau. Maya W/o. Krishnarao Shirsat,
Aged about : 45 Years,
R/o : Sarfali, Post : Kharda,
Tahsil : Babulgaon,
District : Yavatmal.

2(5) Sau. Chaya W/o. Anantrao More,
Aged about : 46 Years,
R/o. Gond Plot, Old Loak Vidyalaya,
Ward No. 18, Prabhag No. 8,
Tahsil & District : Wardha.

(3) Omprakash Ramchandra Thakre,
aged 27 years, occupation : Nil,
r/o Savar, Taluka Babhulgaon,
district : Yavatmal.

(4) Ramesh Shamrao Falke,
aged 31 years, occupation : nil,
r/o Vani Kasba, taluka Babhulgaon,
district : Yavatmal.

Amended
as per
Registrar
order dtd.
21-9-2016

Shri Ramesh s/o Shamrao Falke,
Aged about 50 years, Occ. : Service,
R/o. C/o Krushi Utpanna Bazar Samiti,
Cotton Market Chowk, Yavatmal,
Tah. and District Yavatmal.

(5) Dadarao Sakharam Dhuran,
aged 31 years, r/o c/o A.P.M.C.,
Yavatmal.

... Respondents

Mr. M. Y. Wadodkar, Advocate for the petitioner

Mr. A. C. Dharmadhikari, Advocate for the respondents 1 to 5

CORAM : ROHIT B. DEO, J.

DATED : 21-4-2022

ORAL JUDGMENT

The petitioner (employer) is a market committee constituted under the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963.

2. The employer is challenging the common judgment dated 6-1-2004 rendered by the Industrial Court at Yavatmal in Complaint (ULP) 139/1999 (which was initially registered as Complaint 334/1992) and Complaint (ULP) 438/1999 (which was initially registered as Complaint 694/1995) whereby the complainants – employees are held entitled to regularization in service with effect from 27-8-1995 and to the arrears of difference in the pay for the period 27-8-1995 till regularization.

3. It is not in dispute that the employer did regularize the employees. During the pendency of the petition, all the complainants except respondent 3, Omprakash Ramchandra Thakre superannuated. Respondent 2, employee expired and the legal heirs are on record.

4. Regularization is ordered by the Industrial Court after recording a finding of fact that despite existence of vacant posts, the employer did not regularize the services of the complainants although Mr. Murzade and Mr. Bhagat, who are junior employees, are regularized. The Industrial Court did not give any credence to the submission of the employer that the junior employees were regularized in view of the directions issued by the State Government to fill in backlog. The Industrial Court noted that the witnesses examined by the employer have not given any explanation for the regularization of

Mr. Murzade and Mr. Bhagat in supersession of the claim of the complainants. The Industrial Court further noted that the directions issued by the State Government, which according to the employer, are the reason for regularizing junior employees, are not placed on record. The Industrial Court further noted that three confirmed employees had superannuated and there were vacant posts available.

5. In the memo of petition, the grounds which are raised are primarily on the premise that the Industrial Court has not appreciated the evidence in the proper perspective. However, it is not even a ground raised in the petition that Mr. Murzade and Mr. Bhagat are not junior to the complainants and that there is a factual error either in the admission given on behalf of the employer or then in the finding recorded by the Industrial Court. While Mr. Wadodkar would submit that the appointment of the complainants was backdoor entry, I have not come across any material either in the pleadings or in the evidence to support such an assertion. Indeed, even in the memo of the petition, there is no ground raised that the appointment was backdoor entry. In any event, since there is no factual foundation laid, I am not inclined to look into the said submission any further.

6. In exercise of writ jurisdiction, I see no reason to interfere with the findings of fact recorded by the Industrial Court since there is no demonstrable perversity.

7. The petition is dismissed.

8. The financial benefits due and payable to the employees – complainants or their legal heirs, as the case may be, shall be paid within two months, failing which, the amount shall attract interest at the rate of 8% per annum.

JUDGE

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