

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2613 OF 2004

Sou. Shobha Antu Chopade

}Petitioner
(Orig. Complainant)

: **Versus** :
Chief Executive Officer and anr.

}....Respondents
(Orig. Opponents No.1 and 2)

WITH
WRIT PETITION NO. 1016 OF 2004

Chief Executive Officer,
Zilla Parishad, Satara & Anr.

}Petitioners
(Orig. Respondents)

: **Versus** :
1. State of Maharashtra
2. Shobha Antu Chopade

}....Respondents
(Resp. No.2/Orig.Complainant)

Mr. Aayush Kedia a/w. Mr. Yagni Sarvankar i/by. Mr. Hiten Venegaonkar, for
the Petitioner.

Dr. Uday P. Warunjikar, a/w. Mr. Hrishikesh Nabar, for Respondent No.1.

Ms. Snehal S. Jadhav, AGP for State-Respondent No.2.

CORAM : SANDEEP V. MARNE, J.

Dated : 10 October 2024.

P.C. :

1) These are cross petitions challenging the judgment and
order dated 1 September 1993 passed by the Member, Industrial

Court, Satara in cross Revisions filed by Zilla Parishad and by the employee. In those cross Revisions, judgment and order dated 5 March 2002 passed by the Labour Court, Satara was under challenge. The Labour Court partly allowed Complaint (ULP) N.24/1998 filed by the employee and directed her reinstatement with continuity but without backwages. Revision ULP-23/2002 filed by Zilla Parishad challenging the order of the Labour Court dated 5 March 2002 has been dismissed by the Industrial Court. However, Revision (ULP) No.26/2002 filed by the employee has been partly allowed by awarding her 50% backwages. The Zilla Parishad had challenged the order of the Industrial Court in its entirety by filing Writ Petition N. 1016/2004 whereas the Employee has challenged the order of the Industrial Court to the extent of denial of 50% backwages by filing Writ Petition No. 2613/2004. By order dated 4 March 2006, Writ Petition No.1016/2004 filed by Zilla Parishad came to be admitted by granting stay to the order of the Industrial Court. Writ Petition No.2613/2004 has also been admitted and both the petitions are called out for final hearing today.

2) It appears that on account of stay granted by this Court only to the order passed by the Industrial Court (directing payment of 50% backwages), the Zilla Parishad, Satara implemented the order of the Labour Court by reinstating the employee in service subject to pendency of the petition.

3) During pendency of both the petitions, Zilla Parishad, Satara has passed order in November 2007 regularising the services of the employee from 27 December 1987 to 4 September 2005, without

any financial benefits, but by counting the said period as duty for all purposes. In view of this development, the entire services of the employee from the date of her initial appointment are apparently taken into consideration as period spent on duty for all purposes, except for backwages. It appears that she is further promoted from the Post of ANM, Class-IV category to the post of Health Assistant, Female (Class-III) technical services of Zilla Parishad w.e.f. January 2009. She has retired on attaining the age of superannuation on 31 May 2023.

4) I have heard Mr. Kedia, learned counsel appearing for the Petitioner, Mr. Warunjikar, the learned counsel appearing for Respondent No.1-Satara Zilla Parishad and Ms. Jadhav, learned AGP for State.

5) Considering the above developments where the employee has already been treated as in continuous service of Zilla Parishad from the date of her initial appointment till the date of her retirement with grant of promotion to her, in my view, the order passed by the Industrial Court directing payment of 50% backwages need not be maintained at this stage. This is because the employee has already accepted grant of regularisation to her with continuity in service without financial benefits. Even otherwise, the employee had embroiled herself in a criminal case and was required to be kept away from duties on account of her prosecution in a criminal case. The Zilla Parishad cannot be made to pay her backwages on account of her termination because of her involvement in the criminal case. It is also well settled law that mere acquittal in criminal case does not make terminated employee entitled to full backwages as a matter of right.

Her acquittal is also on benefit of doubt. In my view, therefore the order passed by the Industrial Court granting 50% backwages cannot be sustained and deserves to be set aside.

6) I accordingly proceed to pass the following order :

(i) Judgment and order dated 2 September 2003 passed by the Industrial Court, Satara in Revision (ULP) No. 23/2002 is set aside and it is directed that the employee shall not be entitled to backwages pursuant to her reinstatement in service.

(ii) The Zilla Parishad shall forthwith process the papers for sanction of pension to the employee and pay to her all arrears of pension and pensionary benefits within a period of 3 months from today.

7) To the above extent, **Writ Petition No.1016/2004 is allowed and Writ Petition No.2613/2004 is dismissed.** Rule is made absolute in Writ Petition No.1016/2004 and Rule is discharged in Writ Petition No.2613/2004. Considering the facts and circumstances of the case, there shall be no order as to costs.

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SAWANT

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[SANDEEP V. MARNE, J.]