

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2470 OF 2015

Mr. Namdeo Shankar Patil (since Deceased) ...Petitioners
Through LR's And Ors.

Versus

The Zillah Parishad, Kolhapur, Through ...Respondents
Chief Executive Officer And Anr.

Mr. Meelan Topkar for the Petitioners.
Ms. T.J. Kapre, AGP for the Respondent/State.
Mr. Ramesh Rane for Respondent No.1/Zilla Parishad, Kolhapur.

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**CORAM : NITIN JAMDAR AND
M.M. SATHAYE, JJ.**

DATE : 12 MARCH 2024

P.C. :

. Heard the learned counsel for the parties.

2. The Petitioners were working as Mukadam and Mistry on daily wages with Respondent/ Zilla Parishad from 16 February 1973, 13 February 1978, 1 February 1981 and 1 February 1980 respectively. The services of the Petitioners were terminated on 30 June 1986 by the Zilla Parishad.

3. The dispute raised by the Petitioners was referred to the Labour Court, Kolhapur for adjudication. The Labour Court,

Kolhapur set aside the order of termination, by order dated 3 November 1992 and directed the Respondent/ Zilla Parishad to reinstate the Petitioners with continuity of service. The Respondent/ Zilla Parishad filed Writ Petition challenging the award. The Writ Petitions were disposed of confirming the order of reinstatement and the back wages were reduced. Subsequently, the Petitioners were reinstated in the year 1994 on work charge basis. The Petitioners filed complaint of unfair labour practice in the Industrial Court, claiming permanency and consequential benefit. The Industrial Court allowed the complaint based on Kalelkar Award (settlement) and directed that benefit of Kalelkar Award (settlement) be given to the Petitioners. This order remained to be implemented even though it was not challenged.

4. In the meanwhile, Petitioner Nos. 1 and 2 expired and Petitioner Nos. 3 and 4 crossed the age of superannuation. Since the necessary orders of regularization of the services of the Petitioners and payment of the retiral benefits to them were not issued, the Writ Petition was filed in the year 2014.

5. On 12 December 2018, the Division Bench passed the following order.

“1. The learned Counsel appearing for the first respondent, on instructions, states that, the State Government has not taken any decision on the proposals submitted by the first respondent to the State Government. The first of such proposal is dated 16th November, 2009 (Exhibit-E) to the

petition. The State Government responded to the said proposal by informing the first respondent that the decision on the proposal will have to be taken by the Rural Development Department of the State Government and accordingly, a fresh proposal was submitted by the first respondent to the Secretary of the Rural Development Department on 7th January, 2012 (Exhibit-G to the said petition). The learned Counsel appearing for the first respondent has tendered on record a compilation showing that the first respondent has repeatedly made correspondence with the Rural Development Department but no action has been taken by the Rural Development Department. He submits that without approval of the State Government, first respondent cannot give effect to the Awards made by the Industrial Courts.

2. It appears to us that the proposals submitted by the first respondent, Zilla Parishad right from 17th July, 2012 have been kept pending by the State Government for inordinately long time. We, therefore, direct the State Government to take appropriate decision thereon within a period of one month from today. The decision taken shall be immediately communicated to the first respondent and a copy thereof shall be placed before this Court on the next date.

3. Place the petition on 28th January, 2019 for final disposal at admission stage. Petition be listed under the caption of 'fresh admission'."

6. Till date the decision taken by the State Government is not placed on record. Therefore, even though the Industrial Court has passed an order in favour of the Petitioners two decades ago, no benefits have been received.

7. Today, the learned counsel for the Zilla Parishad has placed on

record a communication dated 11 March 2024 that the Petitioners' proposals are sent to the State Government along with other employees as per the Government Resolution dated 30 January 2023 and once the amount is received from the State Government, the arrears would be disbursed.

8. According to us, this position cannot be countenanced. Firstly, the Respondent/Zilla Parishad for the purpose of record will have to issue an order as per the order passed by the Industrial Court, so that the benefits of Kalelkar (settlement) can be advanced. Let the order be issued by the Zilla Parishad, for the record purposes, within a period of 4 weeks.

9. As regards the proposal submitted to the State Government, considering that the order passed by this Court dated 12 December 2018 granting one month's time, is not complied with till date, we direct that the State Government will calculate the amount payable to the Petitioners as per its Government Resolution dated 30 January 2023 and disburse the same to the Petitioners through proper channel within a period of 8 weeks from today.

10. The Writ Petition is accordingly disposed of in the above terms.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)