



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH

WRIT PETITION NO. 6054 OF 2015

Maharashtra State Road Transport Corporation,
Divisional Controller, Nagpur Division,
Railway Station, Nagpur.

...PETITIONER

Versus

- 1] Kashinath s/o Sampatrao Kale
(Dead) through LR
- 1(a)] Shri Ramesh s/o Kashinath Kale,
C/o Smt. Shobha Krishnaraoji Khantade,
aged about Major, R/o Lonara,
Post – Uparwahi, Tah. Kalmeshwar,
District – Nagpur.
Amended as per Court's order dated 23/1/2019.
- 2] ~~The Presiding Officer,~~
~~Judge, 1st Labour Court, Nagpur.~~
Deleted as per Court's order dated 12/9/2024.

...RESPONDENTS

Shri R.S. Charpe, Counsel for the petitioner.
Shri S.A. Nerkar, Counsel for respondent no. 1(a).

CORAM : ANIL L. PANSARE, J.
DATE : SEPTEMBER 12, 2024

ORAL JUDGMENT :

Leave to delete respondent no.2 is granted.

Correction be made forthwith.

- 2] The petitioner – Maharashtra State Road Transport

Corporation is aggrieved by order dated 24/7/2014 passed by the Presiding Officer, First Labour Court, Nagpur, in proceedings under Section 33C(2) of the Industrial Disputes Act, 1947.

3] Having heard both sides and having gone through the material placed before me, it transpires that the respondent was working as part time Waterman. In a complaint filed by him under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, the Industrial Court, vide judgment and order dated 30/6/1999, directed the petitioner to absorb the respondent as full time Waterman with effect from 1/12/1988 and to give all benefits of a regular employee.

4] After couple of more litigations, the petitioner, on 30/11/2004, complied with the aforesaid order and issued absorption order stating therein that the respondent is being absorbed as full time Waterman with effect from 1/12/1988 in the pay scale of 2400-45-3075-50-3375-55-4145. The absorption order further mentions that order of pay fixation

will be separately issued.

5] The learned Counsel for the petitioner has rightly argued that the Labour Court misread the order of absorption to hold that the pay scale, mentioned in the order, will be effective from 1/12/1988. He submits that the pay scale is mentioned in the absorption order issued on 30/11/2004 to mean that the respondent has been absorbed on that day in the said pay scale. He further submits, and rightly so, that had this scale been effective from 1/12/1988, it would not have been mentioned in the absorption order that pay fixation order will be separately issued.

6] As against, the learned Counsel for the respondent submits that this order having been issued by the petitioner, it will carry plain meaning, which is indicative of the fact that the pay scale is to be applied with effect from 1/12/1988.

7] I am not impressed with the submission made by the learned Counsel for the respondent inasmuch as the pay scale is referred to in the context of the absorption order, which is issued on 30/11/2004 and, therefore, the order has been

concluded with a note that pay fixation order will be separately issued. Accordingly, on 18/12/2004, the pay fixation order has been issued by the petitioner stating therein the details of basic pay as on 1/12/1988 and the permissible yearly increments thereafter from time to time and all other incremental benefits as permissible to the respondent.

8] There is no dispute that the amount in terms of pay fixation order has been released in favour of the respondent.

9] The Labour Court has, thus, misread the order of absorption. The error, being apparent, requires correction.

10] The Writ Petition is accordingly allowed. Order dated 24/7/2014 passed by the Presiding Officer, First Labour Court, Nagpur, in Application IDA No. 102/2011, is quashed and set aside.

11] Rule is made absolute in the aforesaid terms.

JUDGE

Sumit