



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

25 WRIT PETITION NO. 15354 OF 2023

1. President Maharashtra Khadi Gram Udhog
Mandal Through Its Chief Executive Officer,
Bhatiya Bal Raksham Vidyalaya, 19/21,
Manohardas Road, Mumbai.
2. The Maharashtra Khadi Gram Udhog,
Mandal, Through its Chief Executive Officer,
Bhatiya Bal Raksham Vidyalaya, 19/21,
Manohardas Road, Mumbai.
3. The District Gram Udhog Officer,
The Maharashtra Khadi Gram Udhog,
Mandal, District Officer, Ahmednagar. ... Petitioners

VERSUS

Popat s/o. Thamaji Shelar,
Age: 66 years, Occu: Nil.,
R/o. Sonawane Vasti, Godhwani Road,
Ward No.1, Post & Tq. Shrirampur,
Dist. Ahmednagar. ... Respondent

....

WITH

WRIT PETITION NO. 1331 OF 2024

1. The President
Maharashtra Rajya Khadi Gramodyog Mandal,
Bhatiya Bal Rakshak Vidyalaya,
19/21, Manohardas Road,
Mumbai – 400 001.
2. The Chief Executive Officer,
Maharashtra Rajya Khadi Gramodyog Mandal,
Bhatiya Bal Rakshak Vidyalaya,
19/21, Manohardas Road,
Mumbai – 400 001.

3. District Gramodyog Officer,
Maharashtra Rajya Khadi Gramodyog,
Mandal, Station Road, Ahmednagar. ... Petitioners

VERSUS

Popat Thamaji Shelar,
Age: 68 years, Occu: Nil.,
R/o. Ward No.1, Gondhwani Road,
Sonwane Vasti, Tq. Shrirampur,
Dist. Ahmednagar. ... Respondent

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WITH

WRIT PETITION NO. 15346 OF 2023

1. President Maharashtra State Khadi
Gramodyog Mandal,
Bhatiya Bal Rakshak Vidyalaya,
19/21, Manohardas Road,
Mumbai.
2. The Chief Executive Officer,
Maharashtra State Khadi Gramodyog Mandal,
Bhatiya Bal Raksham Vidyalaya,
19/21, Manohardas Road,
Mumbai.
3. The District Gramodyog Officer,
Maharashtra State Khadi Gramodyog Mandal,
District Office, Station Road, Ahmednagar. ... Petitioners

VERSUS

Popat s/o. Thamaji Shelar,
Age: 66 years, Occu: Nil.,
R/o. Sonwane Vasti, Godhwani Road,
Ward No.1, Post & Tq. Shrirampur,
Dist. Ahmednagar. ... Respondent

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Mr. Chavan Sudhir K., Advocate for the Petitioners in all Petitions
Mr. Parag Vijay Barde, Advocate for the Respondent in all Petitions

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 29.01.2026

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of parties at the stage of admission.

2. The Petitioners are assailing the orders dated 03.08.2017 and 22.12.2017 passed by first Labour Court, Ahmednagar in Reference (IDA) No.28/2007, whereby the enquiry held against the Respondent was found to be not legal, fair and proper and the findings of the Enquiry Officer as perverse and the termination of the Respondent was also held illegal and was quashed and set aside, thereby granting him compensation of Rs.4,00,000/- at the interest of 12% per annum. The Petitioners are also assailing the order dated 07.01.2023 passed by the Industrial Court, Ahmednagar in Complaint (ULP) No.16/2019, whereby the Industrial Court directed the Petitioners to implement the Award of Labour Court as early as possible and also granted pensionary benefits to the Respondent.

3. The facts in nutshell are that the Respondent was appointed on 23.03.1973 as a Clerk by Shrirampur Taluka Vividh Karyakari Sahakari Garmodyog Sangh Ltd., Shrirampur, which was a separate entity governed by the Maharashtra Co-Operative Societies Act, 1960. Subsequently, the services of the Respondent were absorbed by the Petitioners by order dated 09.01.1978 as Assistant Secretary, and thereafter, the Respondent was promoted to the post of Secretary. The services of the Respondent came to be terminated by order dated 08.06.1995. Being aggrieved thereby, the Respondent preferred Complaint (ULP) No.413/1195, which was dismissed by the learned

Industrial Court with liberty to file dispute under the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971.

4. The Respondent thereafter filed Complaint (ULP) No.107/2001 before the learned Labour Court, which was unconditionally withdrawn on 22.10.2002. The Respondent preferred a departmental appeal, which came to be dismissed on 26.06.2003. Thereafter, the Respondent filed an application before the Deputy Commissioner, who forwarded a Reference under Section 10 of the Industrial Disputes Act, registered as IDA Reference No.28/2007, to the learned Labour Court. The learned Labour Court initially rejected the said Reference. Aggrieved thereby, the Respondent preferred Writ Petition No.4353/2014 and this Court remanded the matter to the learned Labour Court. Upon remand, the learned Labour Court by its order dated 03.08.2017 declared that the domestic enquiry conducted against the Respondent was not legal, fair and proper and that the findings of the Enquiry Officer were perverse. The said order was challenged by the Petitioners in Writ Petition No.566/2018. Subsequently, the learned Labour Court, Ahmednagar decided the Reference by its award dated 22.12.2017 and directed the Petitioners to pay compensation of Rs.4,00,000/- within three months from the date of publication of the award. The said final award was challenged by the Petitioners in present Writ Petition No.15346/2023.

5. The Respondent thereafter preferred Complaint (ULP) No.16/2019 seeking implementation of the award passed in IDA Reference No.28/2007, as well as claiming arrears from 08.06.1995 to 31.01.2010 along with all consequential service benefits including

promotion, time-bound promotion scheme / ACS, gratuity, provident fund, leave encashment and group insurance etc. The learned Industrial Court partly allowed the Complaint and directed the Petitioners to grant pensionary benefits to the Respondent by treating his date of appointment as 23.03.1973, observing that Respondent had completed more than 20 years of qualifying service and was therefore entitled to pension. The Petitioners challenged the said order by filing present Writ Petition No.1331/2024.

6. The learned Counsel for the Petitioners Mr. Sudhir Chavan submits that the Respondent was appointed with Shrirampur Taluka Vividh Karyakari Sahakari Garmodyog Sangh on 23.03.1973, and not with the Petitioners. According to the Petitioners, the Respondent's services for pensionary benefits ought to have been counted from the date of absorption, i.e. 09.01.1978, and not from 23.03.1973. If the date of absorption is considered, the Respondent does not fulfill the requirement of 20 years of pensionable service, and on that ground alone, the learned Industrial Court ought not have allowed the Complaint. He invited attention to Paragraph No.15 of the Judgment dated 07.01.2023 passed in Complaint (ULP) No.16/2019, wherein, the learned Industrial Court considered the initial date of appointment as 23.03.1973 and observed that he was dismissed from the service on 08.06.1995, as he was held guilty in the departmental enquiry. However, the learned Labour Court has held the enquiry to be illegal, unfair and improper and therefore held that the Respondent had rendered more than 20 years of service, which, according to the Petitioners, is contrary to the record. He submits that the date of absorption ought to have been considered and that findings recorded by the learned Industrial Court are perverse.

7. He further invited my attention to Page Nos.50 and 51 of the Paper-book, which indicate that the Respondent was appointed with Shrirampur Taluka Vividh Karyakari Sahakari Garmodyog Sangh Ltd., Shrirampur and his services were absorbed with the Petitioners with effect from 09.01.1978 only. On these grounds, it is contended that the Respondent did not complete the requisite period of pensionable service, and therefore, he submits that the impugned order is liable to be set aside.

8. Per contra, learned Counsel Mr. Parag Barde appearing for the Respondent submits that the Respondent was dismissed from service in the year 1995, but the said termination was subsequently set aside, and the Respondent was reinstated with continuity of service and back wages. He invited attention to the award dated 22.12.2017 passed by Labour Court, Ahmednagar, whereby the termination order dated 08.06.1995 was held to be illegal. He submits that if the initial date of appointment is considered, the Respondent has rendered the requisite qualifying service for pensionary benefits.

9. The sole issue raised by the Petitioners is whether for the purpose of pensionary benefits, the date of initial appointment should be considered, or whether the date of absorption ought to be reckoned.

10. Having heard the learned Counsel for the respective parties and after examining the record, there is no dispute that the Respondent was appointed on 23.03.1973. The documents placed on record by the Petitioners show that on 09.01.1978 the Respondent was absorbed into service with the Petitioners. Therefore, his date of initial appointment is 23.03.1973, and from that date until his retirement in 2010, the Respondent rendered qualifying service.

11. The Rule 30 of the Maharashtra Civil Services (Pension) Rules, 1982 reads as under :

“30. Commencement of qualifying service - Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity:

Provided that at the time of retirement he shall hold substantively a permanent post in Government service or holds a suspended lien or certificate of permanency:

Provided further that, in cases where a temporary Government servant retires on superannuation or on being declared permanently Incapacitated for further Government service by the appropriate medical authority after having rendered temporary service of not less than ten years, or voluntarily after completion of twenty years of qualifying service, shall be eligible for grant of superannuation, Invalid or, as the case may be, Retiring Pension: Retirement Gratuity; and Family Pension at the same scales as admissible to a permanent Government servant.”

12. After going through the said Rule, Rule 30 of the Maharashtra Civil Services Rules provides that prior to 1986, only 10 years of qualifying service was required for pension. Since the Respondent was appointed in 1973 and absorbed in 1978, his initial appointment date must be considered. Even on that basis, he satisfies the requirement of 10 years' qualifying service.

13. As regards the 20 years' qualifying service criterion, Rule 30 was amended on 05.05.1990 (effective from 01.01.1986). However, this amendment is not applicable to the Respondent, whose initial appointment dates back to 1973. Even considering the date of absorption i.e. 09.01.1978, the Respondent has fulfilled the condition of qualifying service. Hence, I proceed to pass the following order :

ORDER

- [I] The Writ Petitions are dismissed. No order as to costs.
- [II] Rule is discharged.

[SIDDHESHWAR S. THOMBRE, J.]

Sameer/January-2026