Maharashtra State Road Transport ... vs Subhash S/O Laxmanrao Bramhe on 27 February, 2025

Author: Sudhanshu Dhulia

Bench: Sudhanshu Dhulia

2025 INSC 279

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO._____ OF 2025
(@S.L.P (C) No.19499 of 2024)

MAHARASHTRA STATE ROAD TRANSPORT CORPORATION

…Appellant(s)

Vs.

SUBHASH S/O LAXMANRAO BRAMHE

…Respondent(s)

WITH

CIVIL APPEAL NO. _____ OF 2025
(@ Special Leave Petition (Civil) No. 19507 of 2024)

CIVIL APPEAL NO. _____ OF 2025
(@ Special Leave Petition (Civil) No. 19506 of 2024)

CIVIL APPEAL NO. _____ OF 2025
(@Special Leave Petition (Civil) No. 19509 of 2024)

CIVIL APPEAL NO. _____ OF 2025
(@ Special Leave Petition (Civil) No. 19916 of 2024)

CIVIL APPEAL NO. _____ OF 2025
(@ Special Leave Petition (Civil) No. 19504 of 2024)

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(@ Special Leave Petition (Civil) No. 19510 of 2024)

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JUDGMENT

K. VINOD CHANDRAN, J.

Leave granted.

2. The above batch of appeals arise from the judgment of the learned Single Judge of the High Court of Judicature at Bombay, Nagpur Bench. The impugned judgment refused to interfere with the order of the Industrial Court, which allowed the Complaints filed by the respondents/workmen in the year 2015. By Annexure P-11 order dated 17.08.2018, the complaints before the Industrial Court; with respect to the revision of salaries of the workmen by order dated 10.10.2015, cancelling the fixation of wages granted earlier by order dated 15.03.2010; which was alleged to be an unfair labour practice under the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as "the Act"), were allowed and the revision set aside.

3. We have heard Ms. Mayuri Raghuvanshi, learned Counsel appearing for the appellant-

Maharashtra State Road Transport Corporation (hereinafter referred to as "the MSRTC") and Mr. P.N. Misra, learned Senior Counsel appearing for the respondents. Both the learned Counsel referred to Civil Appeal No._____ of 2025 @Special Leave Petition (Civil) No.19507 of 2024; from which we refer to the facts and the history of litigation, the orders in which are also referred from the memorandum of the said case.

4. Learned Counsel for the appellant- MSRTC would vehemently argue that the revision of the year 2015 was only in consonance with the order of this Court in Maharashtra SRTC v. Premlal1. The essential controversy was with respect to a settlement in the year 1956, which stood cancelled in the year 1978; both of which related to grant of time scale of pay and other benefits available to regular workers. The terms differed, insofar as the period in which 180 days continuous service as daily wage employee had to be reckoned, was without any stipulation of period as per the 1956-Settlement, while as per the 1978-Resolution it had to be attained within a financial year. Later, 1 (2007) 9 SCC 141 there was a Settlement in the year 1985 which provided for absorption of daily wage working staff after completed service of 180 days, subject to conditions of a selection by the competent Selection Committee and only against available vacancies. These provisions were the subject matter of interpretation in Premlal1 and it was categorically held by this Court that they have to be read together. It is in that circumstance that the present revision was necessitated in the year 2015, as argued by MSRTC.

5. It is also urged that, the very same conclusion was arrived at in a judgment of a learned Single Judge dated 06.03.2012 produced as Annexure-P-5 which stood approved by the Division Bench by Annexure-P-6 dated 21.08.2012 and the Special Leave Petition filed, stood rejected as per Annexure-P-7 dated 02.05.2000. Annexure- P-7 categorically found that the judgment of the learned Single Judge was in consonance with Premlal1. The exercise of 2015 was necessitated, since otherwise it would have created discrimination insofar as the time scale of pay granted to the daily wage workers. The dictum in Premlal1 was also followed by a learned Single Judge in Annexure P-10 judgment dated 23.06.2016 with respect to the grant of pay scale to daily wage workers on attaining the eligibility criteria of having worked for 180 days subject to their satisfying all the conditions in

the 1978- Resolution and the 1985-Settlement. The judgment of the learned Single Judge and that of the Industrial Court have to be set aside to bring parity with respect to similarly placed workers. On the apprehension expressed by the respondents that recovery would be affected, the learned Counsel for MSRTC asserts that the appellant does not intend to proceed for recovery but the revisions have to be upheld and this would apply to the workers who are still continuing. It is pointed out that even the persons appointed in the year 1992, who were respondents herein, would be regulated by the 1985 settlement.

6. Learned Senior Counsel for the respondent-workmen submits that there are only few workers continuing in service who are affected by the revision and all others are retired long back. It is pointed out that a re-fixation at this stage would seriously prejudice the retired workmen and also the serving employees who were granted fixation in the year 2010. It is argued that the entire exercise has been carried out misconstruing the dictum in Premlal1. Premlal1, in fact, held that the 1956-Settlement, with respect to grant of time scales of pay applicable to regular workers to daily wagers, was distinct and different from the regularization as brought out in the 1985- Settlement. None of the respondents who were complainants before the Industrial Court sought for regularization. They only challenged the revision of pay scales granted in the year 2015, interfering with the earlier fixation of the year 2010; which revision in 2015 was without notice and without reference to Premlal1. Emphasising that no absorption is sought, it is pointed out that Industrial Court in the complaints filed in the year 1992 and 1995 granted identical relief of time scale of pay to similarly situated daily wage employees, all of which have become final. This was the view confirmed in Premlal1; upholding the Full Bench decision of the High Court of Bombay, while dismissing the appeals of the Corporation (MSRTC).

7. We have to first deal with the different clauses which came up for consideration in Premlal1. Clause 49 of the Settlement of the year 1956 enabled all employees who worked for 180 days continuously, including weekly off and other holidays, to be brought under the time scale of pay, eligible also to other benefits available to time scale workers. The Resolution of 1978 cancelled Clause 49 and provided for the daily wage workers, who have completed 180 days in any one financial year, commencing from 1 st April, 1973 to be appointed temporarily in ephemeral vacancies with the time scale of pay applicable to the posts they were appointed in, and were also entitled to other benefits detailed thereunder, as admissible to regular employees with time scale of pay. Hence, when Clause 49 of 1956-Settlement provided for time scale of pay to persons who completed 180 days of service as daily wage workers, the 1978-Resolution enabled only persons who have completed 180 days within a financial year to be appointed temporarily to an ephemeral vacancy. The essential difference was insofar as Clause 49 providing for mere completion of 180 days while the 1978- Resolution mandated completion of 180 days within a financial year, with the entitlement of temporary appointment in an ephemeral vacancy. The appointment to ephemeral vacancies entiled time scale of pay and other specified benefits available to regular workmen.

8. The 1985-Resolution provided for absorption of daily wage workers after completed service of 180 days subject to their selection by the competent Selection Committee and existence of vacancies in the specific posts. According to us, even when the 1985-Settlement came into force, the 1978-Resolution continued to apply, as held in Premlal1. The grant of regular time scale of pay and

the appointment to ephemeral vacancies, being distinct from absorption. The 1985-Settlement provided for absorption into the regular cadre; which even the beneficiaries who were granted time scale or appointed to ephemeral vacancies would be eligible, subject only to satisfying the specific conditions of eligibility; which is a proper selection and only to available vacancies.

9. Premlal1 specifically was concerned with employees who were appointed after 31.08.1978. They were aggrieved with the resolution of 1978 which cancelled Clause 49 of the 1956-Settlement. This Court in Premlal1, categorically held that by the 1978-Resolution, Clause 49 of the 1956- Settlement stood cancelled and that the workers Union had agreed to the said cancellation (sic- para 10). It was found that the demand of the Union for substitution of Clause 49 was agreed to by the MSRTC by which daily wagers who completed 180 days in a financial year were entitled to temporary appointment in an ephemeral vacancy with a time scale of pay. Therein also, the entitlement was not for absorption but for the benefits admissible to regular employees of time scale of pay by appointment to ephemeral vacancies.

10. On a reading of the various provisions, it was categorically held in Premlal1 as follows:

> "10. xxx xxx xxx. In the circumstances, notwithstanding

cancellation of clause 49 of the 1956 Settlement the workmen herein would be entitled to all benefits admissible to regular employees working in the Corporation on timescale of pay provided they satisfy the eligibility criteria of having worked for aggregate service of 180 days and subject to their satisfying all the conditions prescribed for their entitlement in terms of the above Resolution No.8856 read with clause 19 of the 1985 Settlement."

11. The argument of the learned Counsel for the MSRTC that the eligibility has now to be determined based on the 1985-Settlement, arises from the above extract. In paragraph 9 of the decision their Lordships observed that the condition for selection by a competent Selection Committee; which is also subject to availability of vacancies, is only in relation to the absorption as per the 1985-Settlement, which does not regulate the benefit of grant of wages payable to time scale workers as per the 1956-Settlement. The finding of the Full Bench of the High Court that the two clauses operated in different fields was upheld and it was categorically held that Clause 19 of the 1985-Settlement and Clause 49 of the 1956- Settlement operate in different fields and therefore, there is no question of Clause 19 of 1985 superseding clause 49 of the 1956- Settlement (sic).

12. Suffice it to reiterate the principle in Quinn vs. Leathem2 "...a case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that law is not always logical al all" (sic) off quoted with approval by this Court. The dictum of a judgment, it is trite has to be understood from the specific

facts and the larger interpretation coming out and cannot be based on isolated sentences or observations.

13. In this context, we have to look at the various litigations referred to by the learned counsel for the MSRTC, specifically Annexure P-5 which was upheld by this Court. Annexure P-5 dated 06.03.2012 referred to the extract we made 2 [1901] AC 495 from paragraph 10 of Premlal1 and directed that the order of the Industrial Court will be modified to that extent. This was approved by a Division Bench as per Annexure P-6 dated 21.08.2012 and also upheld in Annexure P-7 dated 02.05.2014; on the reasoning that the impugned judgments were in consonance with Premlal1. The order for revision obtained in the year 2015 which was impugned before the Industrial Court is said to be in compliance with the decision at Annexure P-5, as upheld by this Court. We have not been apprised of the essential controversy raised therein but there can be no quarrel to the proposition that Premlal1 governs the field.

14. When the MSRTC asserts that they were only attempting to implement the decision in Premlal1, they keep silent about the pay fixation in 2010 which was revised in 2015. While Premlal1 was pending before this Court; as we discern from Annexure P-8; the Complaint which led to the present order of the Industrial Court, there was another Complaint of 2006 pending before the Industrial Court in which the claim raised by the workmen was upheld by order dated 13.10.2008. It is also asserted by the workmen that the pay fixation of 05.03.2010 was based on the said order of the Industrial Court; which has not been challenged by the MSRTC. Having not challenged the said order, the revision of pay in 2015 by virtue of a subsequent order passed by this Court, reaffirming the dictum in Premlal1, cannot be countenanced. Premlal1 was decided by this Court on 27.02.2007. Immediately thereafter, by Annexure P-4 dated 06.02.2009 directions were issued to implement the same. It was subsequent to and by virtue of the dictum in Premlal1 that the 2010 fixation was granted, as we perceive it from the facts disclosed.

15. We reiterate, at the risk of repetition, that when the order of the Industrial Court came on 30.10.2008 and the pay scales were granted in the year 2010, the decision in Premlal1 was already in existence and before the fixation of 2010, MSRTC had taken steps to implement Premlal1 in 2009. The confusion has been created only by reason of the conditions of absorption being applied to the earlier provisions of 1959 and 1978, which Premlal1 itself clarified, operates in different fields.

16. We also notice Annexure P-9 reply of MSRTC, submitted to Annexure P-8, which admits that the order in Complaint (ULP) No.422 of 2006 decided on 03.10.2008 was not challenged. The contention is that the subsequent Writ Petitions filed by the MSRTC was in consonance with the 1985-Settlement and the revision of 2015 was necessitated due to the order in Maharashtra State Road Transport Corporation v. Sh. Arjun Gangaram Wajgikar and Ors.3 which is Annexure P-5. Annexure P-5 only reiterated Premlal1.

17. We are unable to accept the contention raised by the MSRTC in the appeals, for multiple reasons. First and foremost, the 2010 fixation which is sought to be revised in 2015 was after Premlal1 and also in compliance of an order of the Industrial Court in the year 2008; which order too was subsequent to Premlal1, granting pay scales as applicable to regular workers. The order of the

Industrial Court in the year 2008 has become final and the 2010 order of fixation of pay scales in 3 Writ Petition no. 3466/2011 decided on 06.03.2012 compliance with that order cannot be upset either by reason of a labored interpretation of Premlal1 or on a subsequent litigation, which resulted in Annexures P-5, P-6 and P-7, which also followed Premlal1.

18. Further, there cannot be any contention taken that the eligibility under Clause 49 of the 1956 settlement would depend upon the conditions in Clause 19 of 1985 Settlement. Both the Industrial Court and the High Court of Judicature at Bombay (Annexure P-2) and the decision in Premlal1 found that these operate on two different fields; one is grant of time scales of pay and the other is absorption, the latter of which is not claimed in Premlal1 nor has been claimed by the respondent-workmen herein. The finding in paragraph 10 of Premlal1 is to the effect that the workmen would be entitled to all benefits admissible to regular employees working in the MSRTC, provided they satisfy the eligibility criteria of having 180 days service. The further observation; that it is subject to the conditions prescribed in the 1978-Resolution and the 1985-Settlement can only be treated as enabling those employees who were granted regular time scales, while they were continuing as daily wagers, to be entitled to absorption as per the Settlement of 1985; later of which would be on being selected by a competent Selection Committee and subject to availability of vacancies. We hasten to add that our observation would not entitle any claim for regularization at this stage, since categorically the respondents have not pressed such a claim.

19. Yet again, the 2015 revision of pay scales was without notice to the employees and does not, at all, refer to the decision in the Premlal1 or the subsequent decisions in Annexures P-5 to P-7, as a ground for effecting such revision.

20. For all the above reasons, we find absolutely no reason to interfere with the order of the learned Single Judge which confirms the interference made by the Industrial Court to the pay scale revision effected in the year 2015.

21. Accordingly, the appeals stand dismissed, as above.

22. Pending application(s), if any, shall stand disposed of.

....., J.

[SUDHANSHU DHULIA] ....., J.

[K. VINOD CHANDRAN] NEW DELHI;

FEBRUARY 27, 2025.