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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 28 OF 1995

Narsu s/o Dadarao Nirmal,
Age : 39 years, Occ : Service,
R/o Yeota, Tq.Kaij,
Dist.Beed.

...PETITIONER

-VERSUS-

- 1 The State of Maharashtra.
(Copy to be served on Govt.
Pleader High Court Bombay,
Bench at Aurangabad.).
- 2 The Executive Engineer,
Minor Irrigation Division, Beed.
- 3 The Deputy Engineer,
Zilla Parishad,
Minor Irrigation Division,
Zilla Parishad, Beed.

...RESPONDENTS

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Mr.C.V.Thombre a/w Mr.A.R.Rathod, Advocate for the Petitioner.

Mrs.Y.M.Kshirsagar, AGP, for Respondent No.1/State.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 23rd July, 2015

Oral Judgment:

- 1 This petition was admitted by the Court by the order dated

17.02.1995.

2 Shri C.V.Thombre, learned Advocate appearing for the Petitioner, strenuously criticizes the impugned judgment and order delivered by the Industrial Court dated 06.12.1994 in Complaint (ULP) No.355/1990.

3 The contention is that the Petitioner, who joined the Respondent as a Watchman in July, 1980, had worked in continuous employment and yet was not granted permanency. Juniors had been given pay scales by applying the Maroof Settlement from 15.01.1990 after taking their consent. The Petitioner was not paid the wages from January-March, 1989. He had, therefore, preferred Complaint (ULP) No.355/1990 before the Industrial Court alleging Unfair Labour Practices under Items 5, 6 and 9 of Schedule-IV of the MRTU & PULP Act, 1971.

4 Shri Thombre indicates that the Respondents had filed the Written Statement denying all the contentions of the Petitioner. They denied that he was in continuous employment. They averred that the Petitioner had worked intermittently in July, 1980 to January, 1981 on EGS work, in July-August, 1989 and in February-March, 1990. He, however, submits that the Petitioner did not choose to step into the

witness box and did not lead any evidence. The Industrial Court considered the rival submissions and came to the conclusion that the contentions set out in the complaint were not proved by the Petitioner.

5 He, therefore, submits that the Respondent/ Employer maintains the record and is responsible for stating the truth before the Industrial Court. The material record was withheld and as such, the Industrial Court failed to realize that the claim of the Petitioner was deliberately frustrated by the Respondents. He, therefore, submits that the impugned judgment and order be quashed and set aside.

6 I have considered the submissions of Shri Thombre and have gone through the petition paper book. It is undisputed that the Petitioner did not lead any evidence before the Industrial Court in support of his claim. It is trite law that the onus and burden lies on the workman to prove continuity in service and length of service.

7 Neither had the Petitioner produced any documentary evidence, nor did he issue a notice for production of documents to the Respondents. Some bills were placed on record. The Petitioner surprisingly did not step into the witness box to lead evidence in support of his contentions. It is in this backdrop that the Industrial Court has dismissed

the complaint.

8 Considering the fact situation, I do not find that the
impugned judgment of the Industrial Court could be termed as perverse or
erroneous. The Petitioner failed to put in efforts to establish his
contentions. The complaint was, therefore, rightly dismissed.

9 The Writ Petition sans merit and is, therefore, dismissed. Rule
is discharged.

(RAVINDRA V. GHUGE, J.)