

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3434 OF 2014

JAWED MOHINUDDIN ANISUDDIN
INAMDAR

PETITIONER

VERSUS

MUNICIPAL COUNCIL, MAJALGAON

RESPONDENT

Mr.U.S.Sawaji, Advocate for the petitioner.

Mr.S.R.Choukidar, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 13/08/2015

PER COURT :

1. The petitioner has challenged the judgment dated 30/01/2014 delivered by the Industrial Court in Complaint (ULP) No.229/1998 by which the complaint has been dismissed and the claim of the petitioner for seeking regularization and benefits incidental thereto has been negated.

2. It is not in dispute that the petitioner is working with the respondent from 10/05/1995 and presently is in employment.

3. The respondent / Municipal Council has filed an affidavit in reply through Mr.Barindrakumar Chagan Gavit, Chief Officer of the respondent. It is stated in the affidavit that though the petitioner was

engaged as recorded above, he had left employment voluntarily and was subsequently permitted to resume duties on 27/02/2009. Since then, he has been working satisfactorily.

4. The respondent has stated in paragraph No.6 as under :-

"I say that, in the abovesaid premises the entry of writ petitioner in the services of the Municipal Council, as a daily wager employer, could be regarded as having entered in the services of the Municipal Council as a daily wager purely on temporary basis and subject to availability of work w.e.f.27/02/2009. The writ petitioner shall not claim any benefit either of permanency or past service rendered by him and if, petitioner submits undertaking in that behalf to this Hon'ble Court, the claim of the writ petitioner for absorption/regularization in the services of the Municipal Council and proposal in that behalf can be submitted to the State Government and director of Municipal Administration, who in turn, shall decide the same as per the seniority of the employees whose services are to be regularized."

5. In the light of the above, the petitioner submits that he would be satisfied if the proposal is referred to the appropriate authority by the respondent as stated in paragraph No.6 of the affidavit and the petitioner would await his turn for absorption as per the seniority list of the employees in his class. Till then, he would continue to work with the respondent until his turn for absorption comes.

6. In the light of the above, this petition is disposed of with the following observations :-

- a. The respondent shall forward the proposal of the petitioner for absorption / regularisation to the appropriate authority within a period of 12 weeks from today.
- b. The petitioner would be absorbed as an when his turn comes as per the seniority list, applicable to him, considering his date of entry in employment as 27/02/2009.
- c. Till his absorption as above, the petitioner shall work on consolidated wages as like 30 other employees, who have been inducted prior to 1995.
- d. The petitioner shall not raise any grievance about his continuance on consolidated wages till his turn for absorption is reached.
- e. The respondent shall not terminate the services of the petitioner only on the ground of he is a temporary employee.
- f. The above protection shall exclude disciplinary proceedings and disciplinary action.
- g. Barring emergent and unavoidable circumstances wherein the respondent would be required to give a break to the petitioner, the petitioner shall be offered work regularly.

7. In the light of the above, the petitioner shall not put forth any claim before any authority under the Industrial Disputes Act or any Court for claiming permanency / regularization unless a cause of action in relation to super-session occurs.

(RAVINDRA V. GHUGE, J.)