

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.

MISC. CIVIL APPLICATION NO.1321 OF 2015

IN

WRIT PETITION NO.2392 OF 2008(D)

(Narendra Raghunathji Lanjewar ..vs.. Maharashtra State Electricity Distribution Co.Ltd., Wardha,
through its Executive Engineer & others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 21-12-2015

Heard Shri S.D. Thakur, learned Advocate for the
applicant-employee.

2. The applicant-employee has filed this application praying for review of the judgment passed by this Court in Writ Petition No.2392/2008. The submission is that the entitlement of the applicant-employee as per Clause 4-C of Schedule-I of the Bombay Industrial Employment (Standing Orders) Rules, 1959 has not been properly considered by this Court, because of which the error has crept in. It is submitted that Clause 4-C of Schedule-I of the Bombay Industrial Employment (Standing Orders) Rules, 1959 will have overriding effect over the regulations of the petitioner-employer.

3. In paragraph No.8 of the judgment, the facts are considered and it is recorded that the documentary

evidence on the record and the admissions given by the applicant-employee in the cross-examination show that after he was transferred to Wardha, the applicant-employee was appointed as Line Helper by creating supernumerary post and that he had been working as Line Helper. It is recorded that the applicant-employee has not been able to show that after his transfer to Wardha he had been doing the clerical work. In view of this, the claim made by the applicant-employee relying on the provisions of Clause 4-C of Schedule-I of the Bombay Industrial Employment (Standing Orders) Rules, 1959, cannot be accepted.

4. The other submission made by the learned Advocate for the applicant-employee is that the subsequent events i.e. grant of permission to the applicant-employee by the employer for appearing in the higher examination conducted by the department and the confirmation of the applicant-employee as Lower Division Clerk is also relevant factor, which is overlooked by this Court while deciding the writ petition. These aspects are considered in paragraph No.9 of the judgment. It is recorded that the first order which was issued on 09-06-2010 by the Superintending Engineer, states that the appointment of the applicant-employee as Lower Division Clerk was temporary and subject to the decision of the writ petition. It is further recorded that the subsequent orders, on which the applicant-employee

is now relying, are in continuation of the communication dated 09-06-2010 and therefore, it cannot be said that any substantive right was created in favour of the applicant-employee.

5. I do not find any error apparent on the face of the record which necessitates the review of the judgment. The miscellaneous civil application is dismissed. In the circumstances, there shall be no order as to costs.

JUDGE

pma