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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.5106/2005

The Chief Officer,
Municipal Council, Udgir.
Tq.Udgir Dist.Latur.

...Petitioner..

Versus

Smt.Anupama w/o Trimbakrao Sadanande,
aged 25 yrs., occu.service,
r/o Church Road, Udgir.
Dist.Latur.

...Respondent...

.....

Shri S.C. Swami, Advocate h/f Shri V.D. Gunale, Advocate
for petitioner.

Shri A.M. Nagarkar, Advocate h/f Shri K.M. Nagarkar,
Advocate for respondent.

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CORAM: RAVINDRA V. GHUGE, J.

DATE: 18.03.2016

ORAL JUDGMENT :

1] The petitioner is aggrieved by the judgment and
order dated 25.1.2005 delivered by the Industrial Court
in Complaint (ULP) No.351/2004 (old No.119/2008) by which
the complaint has been allowed.

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2] This petition was admitted on 31.8.2006 only after the respondent tendered a communication dated 29.6.2005 issued by the Chief Officer, Nagar Parishad, Latur (the petitioner herein) to the District Collector, Latur, wherein it has been stated that steps are being taken by the petitioner for regularizing the services of the respondent - employee on the post reserved for the physically challenged. This Court, therefore, observed that it is clear that the services of the respondent are being regularized by the petitioner on the post reserved for persons suffering from physical disability.

3] The order of this Court dated 31.8.2006 reads as under:-

" Rule.

The respondent has filed a communication dated 29.6.2005 issued by the Chief Executive Officer, Nagar Parishad, Latur, to the Collector, Latur, stating therein that steps are being taken for regularising the services of Smt. Anupama Sadanande on a post reserved for physically challenged. In view of the aforesaid communication, it is clear that the services of the respondent are being regularised in Nagar Parishad on a post reserved for the persons suffering from physical disability. In view of

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this position, no interim relief."

4] Shri Gunale, learned Advocate appearing on behalf of the petitioner, strenuously submits that despite an effort was made by the petitioner to file its written statement in the complaint filed by the respondent seeking regularization in service, the Industrial Court has not accepted the written statement and has proceeded to deliver the impugned judgment *ex-parte*. It is not disputed that the respondent is in employment from 21.1.1994, is a physically challenged person and is still in employment today.

5] The learned Advocate for the respondent - employee, has supported the impugned judgment.

6] I find from paragraph no.3 of the impugned judgment that the Industrial Court has noted that despite sufficient opportunities, the petitioner failed to file its written statement. The order "*proceed ex-parte*" was passed on 16.9.2004.

7] The Industrial Court has recorded in paragraph no.5 of the impugned judgment that after a complete trial in which the petitioner did not participate, while the final judgment was being dictated, the petitioner

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attempted to file a written statement. The Industrial Court has, therefore, rejected the application as it was already dictating the judgment in the complaint.

8] Considering the above and the statement recorded by this Court on 31.8.2006, I do not find that this petition deserves to be entertained. The same is, therefore, dismissed. Rule is discharged.

9] Pending civil applications, if any, do not survive and are disposed of.

(RAVINDRA V. GHUGE, J.)