

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5623 OF 2014

RAJABHAU KISANRAO DEVAKATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Nimbalkar A.A. h/f Shri Ghute A.T.
AGP for Respondent 1 : Smt. Raut S.S.
Respondents 2 & 3 : Served.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: May 02, 2016
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PER COURT :-

1. The petitioner is aggrieved by the judgment and order of the Industrial Court dated 21.4.2012, by which, his Complaint (ULP) No.84 of 2012 has been dismissed on the ground that the Complaint is not maintainable.
2. Shri Nimbalkar, learned Advocate a/w Shri Ghute, Advocate has strenuously criticized the impugned judgment. Contention is that the petitioner was appointed on fixed terms on 2.2.1999 till 31.5.2007. He has in fact worked continuously on the basis of these appointments. Ten posts of Choukidar were created on 28.11.1998 and the petitioner can be absorbed.
3. He further submits that the petitioner has placed reliance upon the Government Resolution dated 31.5.2007 on the basis of which, the petitioner will have to be continued in the employment. In similar circumstances, the Industrial Court, Latur had allowed Complaint (ULP) No.12 of 2011.
4. I have considered the submissions of the learned Advocate for the petitioner.

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5. The Industrial Court has dismissed the Complaint after considering that his last fixed term appointment ended on 31.5.2007. Thereafter, he was not continued. He had preferred his Complaint on 21.4.2012, which is after almost 5 years from his last day of working. His service, therefore, stood discontinued / terminated and he could not have approached the Industrial Court.

6. In the light of the above and considering the jurisdiction of the Labour Court and the Industrial Court under Sections 5 and 7 of the the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act "), I do not find that the impugned judgment could be termed as perverse or erroneous. Ends of justice would be met by granting liberty to the petitioner to raise an industrial dispute under Section 2A of the Industrial Disputes Act as the dismissal of his complaint ought not to render him remediless.

7. As such, this petition is dismissed, with liberty to the petitioner as observed above.

(RAVINDRA V. GHUGE, J.)

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