

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

WRIT PETITION NO. 10837 OF 2016

PRAVIN KAMALAKAR NHAVI
VERSUS
NAGAR PARISHAD SAVADA OFFICE JALGAON
...
Advocate for Petitioner : Shri Patil Vinod Prakash.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd December, 2016

Per Court:

1 The Petitioner is aggrieved by the judgment of the Industrial Court dated 04.11.2015 by which Complaint (ULP) No.16/2013 filed by the Petitioner, has been dismissed.

2 Shri Patil, learned Advocate for the Petitioner/ Employee, has severely criticized the impugned judgment. His contention is that rent of the official quarters @ Rs.500/- per month from 1998 is illegal. Rent should have been Rs.30/- per month.

3 The Petitioner was appointed as a Peon on compassionate basis after his father retired. He continued to occupy the quarters even after the retirement of his father. The Respondent/ Municipal Council

began recovery of the rent of the quarters at the rate of Rs.500/- per month.

4 The Petitioner was dismissed from service on 19.11.2001 which was challenged in Complaint (ULP) No.198/2001. He has been reinstated in service. When he was sought to be dispossessed of the official quarters, he filed Regular Civil Suit No.63/2001 before the Civil Court at Raver. The Respondents were enjoined from dispossessing him. An amount of Rs.94,000/- towards the rent of the quarters has also been recovered from him. He had prayed for refund of the said amount along with interest at the rate of 18% per annum.

5 The Industrial Court has dismissed the complaint for the reason that the Petitioner could not establish that the acts being committed by the Respondent would attract Item 9 of Schedule IV of the MRTU & PULP Act, 1971. It is settled law that unless an act complained of is not proved to be an ULP under a particular item, there can be no declaration and consequentially, no relief can be granted. The Petitioner could not prove that the service conditions or the contract between him and the Respondent/ Employer prescribe rent at Rs.30/- per month. As such, the Petitioner could not prove failure on the part of the Respondent in implementing any settlement or agreement or award under Item 9 of

Schedule IV of the MRTU & PULP Act, 1971.

6 This Court, in the matter of *Rohidas Waraji Nisargandh v/s Precision Pattern Works*, 2009 (6) Mh.L.J. 730, has concluded in similar circumstances that small quarters made available by the Employer could reasonably fetch rent of Rs.500/- per month.

7 In the light of the above, I do not find any reason to interfere in the impugned order. This Writ Petition being devoid of merit is, therefore, dismissed.

kps

(RAVINDRA V. GHUGE, J.)