

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

WRIT PETITION NO. 8579 OF 2015

AVINASH GOVINDRAO DHONDE
VERSUS
STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...
Advocate for Petitioner : Shri Barde Parag Vijay.
AGP for Respondents 1 and 2 : Shri PN.Kutti.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 23rd August, 2016

Per Court:

1 The Petitioner has preferred this petition on 19.06.2015 for challenging the judgment of the Industrial Court dated 08.03.2011 by which his Complaint (ULP) No.428/1998 has been dismissed.

2 Shri Barde, learned Advocate for the Petitioner, has strenuously criticized the impugned judgment. The contention is that the Petitioner had worked from 07.10.1997 till 30.12.1998 as a Driver with the Respondents. He was given the appointment orders for the periods of 29 days at a time and that was followed by a single day's break. He preferred a ULP complaint on 10.12.1998 for claiming permanency. Though by the interim order dated 18.01.2001, his service was protected,

the Respondents had terminated his service on 30.12.1998. He, therefore, submits that the Industrial Court should have considered the complaint on the basis of the period of work performed by the Petitioner.

3 Shri Barde further makes a grievance that the Industrial Court has declined to exercise jurisdiction by concluding that since the Petitioner was not in employment, the complaint need not be entertained. The Industrial Court has erroneously relied upon the view taken by the Honourable Supreme Court in the matter of the *Secretary, State of Karnataka v/s Umadevi*, **AIR 2006 SC 1806 : 2006(4) SCC 1**. The Petitioner is not in employment from 30.12.1998 for the past about 18 years.

4 I find that the Petitioner was engaged on temporary basis as a Driver. Appointment orders for 29 days used to be issued. Total duration of work is about 14 months. The Industrial Court has concluded that when the complaint was filed, the Petitioner was not in employment.

5 The Respondents are the Deputy Director of Health Services and the District Blindness Control Society. There can be no dispute that the appointments in such Departments have to be made by following the due procedure of law. The Petitioner was temporarily engaged and had

worked for only 14 months which would not give him a right to permanency merely on the basis of having completed 240 days in continuous employment. He has been out of employment for the past about 18 years.

6 Considering the above, I do not find that reliance placed upon the judgment of the Honourable Supreme Court in the case of *Umadevi* (supra) by the Industrial Court while delivering the impugned judgment, could be termed as being perverse or erroneous.

7 This Writ Petition being devoid of merit is, therefore, dismissed.

kps

(RAVINDRA V. GHUGE, J.)