

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

WRIT PETITION NO. 1261 OF 2002

Executive Engineer,
Maharashtra State Electricity Board,
Urban/Rural Division and
Vidyut Bhavan,
Sakri Road, Dhule.

..Petitioner

Versus

Sunil Shantram Satarkar,
Age : years, Occu : Business,
R/o. Lane No. 5/6, Middle Line,
Parola Road, Dhule.

..Respondent

**WITH
WRIT PETITION NO. 851 OF 2005**

Shri Sunil Shantaram Satarkar,
Age 30 years, Occu. Service,
R/o. Lane No. 5,
Behind Anandibai Jawadekar High School,
Dhule.

..Petitioner

Versus

The Executive Engineer,
Maharashtra State Electricity Board,
Urban & Rural Division,
Sakri Road,
Dhule.

..Respondent

**WITH
WRIT PETITION NO. 1346 OF 2007**

Executive Engineer,
The Maharashtra State Electricity
Distribution Company Ltd.,
Urban and Rural Division, Dhule
Dist. Dhule.

..Petitioner

Versus

Sunil Santaram Satarkar,
Age : 33 years, Occu : Service,

R/o. Lane No. 5-6, Dhule,
Dist. Dhule.

..Respondent

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Advocate for Petitioners : Shri Gaikwad Anil M.
Advocate for Respondent : Shri Sawant A.S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 14, 2016

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ORAL JUDGMENT :-

1. In the first petition, the petitioner has challenged the judgment of the Industrial Court dated 18.2.2002, by which Complaint (ULP) No.130 of 1996 (New No. 1277 of 1999) has been partly allowed and the petitioner is directed to provide the status and privileges of the post of a Peon to the respondent from January 1996 with difference of salary.

2. This petition has been admitted by order dated 24.6.2002. Interim relief was refused to the petitioner.

3. The second and third petitions admitted on 6.6.2011 and 21.3.2007 are offshoots of the first petition. Learned Advocates, therefore, submits that by the decision in the first petition, the other two petitions can be disposed off.

4. Shri Gaikwad, learned Advocate for the petitioner has strenuously submitted that the impugned judgment of the Industrial Court is perverse and unsustainable. An erroneous conclusion has been arrived at. The respondent employee was purely appointed as a Labourer at the rate of

Rs.9/- per day by an order / contract dated 19.8.1991. Though, gradually his daily wage was increased over the years, he continued to be a contractual daily wager and was neither selected nor appointed on the post of a Peon.

5. He further submits that the respondent preferred the complaint in 1996 and claimed regularisation with consequential benefits to the post of a Peon. Industrial Court has erroneously allowed the complaint. There was no employer / employee relationship between the two. The complaint was not maintainable.

6. It is further submitted that his work was only of filling and storing drinking water for the employees of the petitioner in the office. He was engaged only in the summer season. Being a contractual employee, he has no legal right to seek regularisation. He, therefore, submits that the impugned judgment deserves to be quashed and set aside and the complaint deserves to be dismissed.

7. Shri Sawant, learned Advocate for the respondent employee has supported the impugned judgment. Contention is that there was no privity of contract in between the petitioner and any contractor. No contractor had deployed the respondent on the premises of the petitioner. He was directly engaged by the petitioner as a Peon and his work was to store drinking water, clean the office, assist the officers in movements of files and documents and was required to do office assignments.

8. He further submits that merely because the petitioner used to issue office orders (कार्यालयीन आदेश), would not mean that the respondent was a contractual employee. The word “Contractor” (“ठेकेदार”) was introduced only to project a false picture. Every order of appointment was issued by the competent authority of the petitioner. All these documents were placed on record.

9. He further submits that the respondent, even today, is in employment and is drawing the salary as per the directions of the Industrial Court vide the impugned judgment. However, whenever he was not regularly paid his wages, he moved an application before the Industrial Court or filed a criminal complaint under Section 48(1) of the the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (“the said Act”), for seeking implementation of the impugned judgment. He has settled down in employment for the past 25 years and it would be harsh and would cause an irreparable harm to the respondent if the impugned judgment is set aside. He further adds that after hearing the parties, this Court had declined interim relief to the petitioner.

10. I have considered the submissions of the learned Advocates as are recorded herein above.

11. A finding on facts has been arrived at by the Industrial Court.

Several documents placed on record and Exhibited were taken into account by the Industrial Court while delivering the impugned judgment. From paragraph No.9 onwards, the Industrial Court has discussed the oral and documentary evidence in the light of the law as applicable.

12. I also find that the Industrial Court has concluded that there was no contractor in between the petitioner and the respondent. An order allotting work to the respondent was directly issued by a superior officer of the petitioner. It is not the case of the petitioner that the officer who issued the orders was not competent to engage the respondent in employment.

13. In the light of the above, I do not find that the impugned judgment could be termed as being perverse or erroneous. The respondent has settled down in employment for the past 25 years and is drawing wages as per the directions of the Industrial Court in the impugned judgment.

14. Considering the above, the petitioner is directed to process the proposal of the respondent for regularisation in service as a Peon as per the directions of the Industrial Court set out in the impugned judgment dated 18.2.2002.

15. This petition being devoid of merits is, therefore, dismissed. Rule is discharged.

16. Considering the above order and the fact that the petitioner is under an obligation to pay the regular wages to the respondent as per the directions of the Industrial Court, the second and the third petition need not be kept pending. Same are, therefore, disposed off and Rule is discharged.

17. Pending Civil Applications, if any, do not survive and stands disposed off.

(RAVINDRA V. GHUGE, J.)

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