

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11304 OF 2016

DAMU RAMCHANDRA BORUDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Shri Jadhav S.V.
AGP for Respondent 1 : Shri Bhagat N.T.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: November 22, 2016

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PER COURT :-

1. The petitioner is aggrieved by the order dated 12.12.2001, delivered by the Labour Court, thereby concluding that his Complaint (ULP) No.88 of 1999 is untenable since he is not a 'workman' under Section 2(s) of the Industrial Disputes Act and is not an employee under Section 3(5) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act "). He is also aggrieved by the judgment of the Industrial Court dated 22.1.2013 by which, the Industrial Court has dismissed his Revision (ULP) No.104 of 2011.

2. In the light of the submissions of the learned Advocate and the impugned judgments, I find that the petitioner is not a 'workman'. He was discharging his duties as an Inspector from 1991 onwards and he was promoted as an Assistant Secretary of the A.P.M.C. for about a year or more prior to his dismissal from service for proved misconduct of corruption dated 1.3.1994. He has admitted in his cross-examination

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that he was having supervision and control over the auction of several properties, was assisted by Clerks and was the superior authority for the Hamal and Mathadi Hamal, who were working under the A.P.M.C. He is covered by the definition of Secretary and Assistant 'Secretary' under the 1963 and the 1967 Rules.

3. Considering the above and in the light of the view taken by the learned Division Bench of this Court in the matter of Chandrashekhar Chintaman Vaidya Vs. National Organic Chemical Industries Ltd. [2010 II CLR 121 = 2010(3) Mh.LJ 434], the view taken by the Labour and Industrial Courts cannot be termed as perverse.

4. This petition being devoid of merits is, therefore, dismissed.

5. The petitioner submits that he had filed a representation on 27.3.1997 against his dismissal, followed by reminder dated 26.7.2004. Under Rule 104 of the Maharashtra Agriculture Produce Marketing Committee Rules 1967, the petitioner can prefer an Appeal against the order of punishment. Shri Jadhav submits that the petitioner desires to resort to the said remedy as well as pursue his pending representations. This Court is not required to express any view on the same.

(RAVINDRA V. GHUGE, J.)

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