

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1454 OF 2016

The Chief Executive Officer,
Zilla Parishad, Nashik & anr.

.... Petitioners
(Ori. Respondents)

versus

Smt. Mangala Karbhari Warungase & anr.

... Respondents

Ms. Chaitrali Anand Deshmukh for the Petitioners.
Mr. Rahul D. Motkar for Respondent No.1.

CORAM : S.C.GUPTE, J.

DATE : 8th AUGUST, 2016

P.C. :

1. Heard learned Counsel for the parties.

2. This is a petition challenging an order passed by the Labour Court at Nasik in a complaint of unfair labour practice. The first Respondent was a Balwadi Teacher in the employment of the Petitioners since August 1998. She worked with the Petitioners for more than 20 years and was terminated w.e.f. 17/01/2012. On her complaint, the Labour Court held that the Petitioners herein had engaged in an unfair labour practice under Item-1(b) & (d) of Schedule IV of the MRTU & PULP Act, 1971 and directed the Petitioners to reinstate the complainant as an Anganwadi Madatnis

with continuity of service and to pay her back wages of the post of Madatnis w.e.f. 17/01/2012.

3. It is the case of the Petitioners that as per a Government circular, Balwadis were closed down and Balwadi Teachers, who had the qualification of Standard X, were to be absorbed as Anganwadi Madatnis. Since the first Respondent did not have the required qualification (the first Respondent was only Standard VII passed), the first Respondent was terminated by the Petitioners. The relevant Government Circular requires the Government to absorb Balwadi Teachers as Anganwad Sevikas in case they are Standard X passed, and if not, to absorb them as Anganwadi Madatnis. The Labour Court has held that in accordance with their own circular, instead of appointing her as Anganwadi Madatnis based on her qualifications, the first Respondent was terminated and not absorbed in the alternative employment and that this action amounted to an unfair labour practice. No fault can be found with the impugned order of the Labour Court.

4. Learned Counsel for the petitioners has shown to this Court a letter addressed to her by the Petitioners on 30/07/2016. The Petitioners have taken a position in this letter that at the place

at which the first Respondent was working as a Balwadi Teacher, there is no sanctioned Anganwadi, and therefore, she cannot be absorbed even as an Anganwadi Madatnis. The grievance of the first Respondent, in that case, can certainly be addressed by appointing her as an Anganwadi Madatnis in an Anganwadi existing in any nearby village. Learned Counsel for Respondent No.1 informs the Court that there is an Anganwadi at Gurewadi in Taluka Sinnar, which is about 10-12 km. away from Dubere, Taluka Sinnar, where the first Respondent was working as a Balwadi Teacher. The learned Counsel submits that the first Respondent is ready to accept the post at the Gurewadi Anganwadi and in default, at any other nearby village.

5. The Petitioners are, accordingly, directed to absorb the first Respondent in the Anganwadi at Gurewadi as an Anganwadi Madatnis in case such post is vacant and available, and if not, in any nearby village, where an Anganwadi exists and where a post of Anganwadi Madatnis may be available, subject to the concurrence of the first Respondent.

6. The petition is disposed off accordingly.

(S.C.GUPTE, J.)