

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5958 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms.Vaishali Nimbalkar, A.G.P. for the petitioner

CORAM : K. K. TATED, J.
DATE : NOVEMBER 15, 2016

P.C.:

- 1 Heard the learned A.G.P. for the petitioner.
- 2 By this petition under Article 227 of the Constitution of India, the Petitioner challenges the order dated 24.12.2010 passed by Member, Industrial Court, Maharashtra, Kolhapur in Complaint (ULP) No.77 to 1997 of 2005 directing petitioners State to extend all the consequential benefits of permanency to the respondents from the date of completion of 240 days' continuous service.
- 3 In the present proceeding, the respondents/ complainants were appointed some time in the year 1972 to 1979 on temporary basis. Thereafter they were confirmed in service some time in the year 1979 to 1981 as stated in paragraph 2 of the

impugned common judgment dated 24.12.2010. As the petitioner failed to provide them consequential benefits of permanency from the date of completion of 240 working days they preferred complaint before the Industrial Court in the year 2005. That complaint was allowed by the Industrial Court on the basis of earlier decision of this court in Writ Petition No.4544 of 1998 and 4545 of 1998. The order passed by this court in those Writ Petitions were challenged by the petitioner before the Apex Court in Civil Appeal No.3077 of 1999. The Apex Court dismissed the Appeal preferred by State of Maharashtra.

4 The learned A.G.P for the petitioner submits that in the present proceedings, though respondents were confirmed in service on permanent basis some time in the year 1979 to 1981, they preferred complaint in the year 2005. She submits that as per the provision of section 28 of the MRTU and PULP Act, 1971 complaint is required to be filed within 90 days from the date of cause of action. She submits that though the limitation point was raised by the petitioner before the Industrial Court, same was not considered. She submits that in Writ Petition, also they raised the same issue. Hence, impugned order passed by Industrial Court dated 24.12.2010 is required to be set aside. She submits that if present Writ Petition is not allowed, irreparable loss will be caused to

the petitioner because they have to bear all the expenses.

5 It is to be noted that in the present proceedings, Industrial Court decided the complaint on the basis of earlier judgment in Writ Petition No.4544 and 4545 of 1998 and Apex Court judgment in Civil Appeal No.3077 of 1999 arising out of the same facts and circumstances. To that effect, Industrial Court has given reason in paragraph 2 of the impugned order.

6 Considering these facts and as impugned order is passed by Trial Court on the basis of earlier decision of this court as well as Apex Court from similar matters and the issue, I do not find any reason to entertain the present Writ Petition. Hence, Writ Petition stands rejected.

JUDGE