

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5494 OF 1997

1. The State of Maharashtra

2. The Dy. Director of Health
Services, Aurangabad,

3. The Assistant Director of
Health Services (Leprosy)
Near Shivaji College,
Parbhani,

4. The Medical Officer,
Leprosy Control Unit
Sailu, Dist. Parbhani

-- PETITIONERS

VERSUS

Gangadhar s/o Yadavrao Hajare,
Age-40 years, Occu-Service as Driver,
R/o Sarvoday Nagar,
Sailu, Tal. Sailu, Dist. Parbhani

-- RESPONDENT

Mr.S.P.Tiwari, AGP for the petitioners/State.

Mr.Ajinkya Kale h/f Mr.S.B.Talekar, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 09/02/2017

ORAL JUDGMENT :

1. The petitioner is aggrieved by the impugned judgment and order dated 29/08/1996 vide which the Industrial Court has partly allowed Complaint (ULP) No.29/1996.

2. I have heard the learned AGP on behalf of the petitioners and Mr.Talekar on behalf of the sole respondent.

3. Considering the order that I intend to pass, it would be apposite to reproduce the impugned order delivered by the Industrial Court (*in verbatim*), which reads as below :-

“The complaint is partly allowed.

It is hereby declared that the respondent No.1 to 3 have engaged and are committing in an unfair labour practice under section 28(1) r/w Item 9 of Schedule IV of the MRTU and PULP Act, 1971 by refusing to pay regular payscale of the post of ‘Driver” to him.

It is hereby ordered that the respondent shall desist and cease from committing the unfair labour practice by immediately paying him regular pay scale to the post of driver prescribed under the rules from the date of filing complaint i.e. 26.2.1996 subject to the condition that his services are still engaged by the respondents on a temporary basis i.e. if he is continued on the job. It is further ordered that the services of the complainants should be engaged only if the exigencies of the administration demand and in accordance with the rules framed (framed) by the State Government in the matter of apporgtment (appointment) of Ad-hoc or temporary employees. The respondent no.1 is ordered to verify the administrative exigency from the respondent Nos. 2 and 3, if the complaint is to be continued any further on at temporary basis in further.

The complaint of unfair practices under Item 5 and 6 stands rejected.”

4. It is apparent that the Industrial Court has directed the

petitioners to pay such wages to the respondent as are prescribed under their rules from the date of the filing of the complaint which is 26/02/1996 subject to the condition that his services are still engaged. The petitioners have narrated the details of the Ad-hoc appointment of the respondent as a 'Driver' and the order of the learned Division Bench of this Court in WP No.3842/1990 by which such Ad-hoc Drivers were to be continued on the same basis/conditions until the selected candidate is made available through the Regional Selection Board. It is informed that from 26/02/1996, which is the date of the complaint, the respondent was not in employment since by that time the regularly selected candidates were already supplied by the Regional Selection Board.

5. Considering the above, I find that this petition is rendered infructuous since the impugned judgment and the order reproduced above does not mandate the petitioners to pay wages to the respondent for such periods when he had not worked with the petitioners.

6. With these observations, this petition is disposed of and Rule is discharged.

(RAVINDRA V. GHUGE, J.)