

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7302 OF 2004

The Chief Officer,
Municipal Council, Udgir.

... **Petitioner**

Vs.

Dashrath Bhimrao Mamadge,
Age: 50 yrs, Occ: Nil,
R/o c/o Marathwada Lal Bavta,
Kamgar Union, Udgir through
Secretary

... **Respondent**

Mr. V.V. Bhavthankar, Advocate for the Petitioner.
Mr. B.B. Yenge, Advocate for the Respondent.

CORAM : P.R. BORA, J.
DATE : 20-04-2017.

ORAL JUDGMENT :

1. The petitioner-municipal council has filed the present petition challenging the order passed by the Labour Court, Latur in Reference (IDA) No. 37 of 1998. Vide the award passed by the learned Labour Court in the aforesaid reference application, the Municipal Council, Udgir was directed to reinstate the present respondent as Class-IV employee.

2. Shri V.V. Bhavthankar, the learned counsel appearing for the petitioner-municipal council submits that, the respondent was a daily wager and it was the case of the respondent himself that he was a daily wager, in the statement of claim filed by him in the aforesaid reference application. In the circumstances, according to

the learned counsel, the learned Labour Court ought to have passed an order directing the petitioner-municipal council to reinstate him on the post on which he was working and in the capacity as he was working i.e. as a Daily wager. Shri Bhavthankar, pointed out that on 05.02.2007 when the present matter was taken up for hearing, this Court had passed a reasoned order granting interim relief in favour of the Municipal Council, thereby, allowing the Municipal Council to reinstate the respondent as a Daily wager and not as a Class-IV employee. The learned counsel submits that, the said order has been complied with by the Udgir Municipal Council.

3. Shri B.B.Yenge, the learned counsel appearing for the respondent, though, sought to canvass that infact respondent was liable to be made permanent and, as such, no fault can be found in the award passed by the learned Labour Court.

4. I am however not convinced with the submissions so made by Shri Yenge. When it was the case of the respondent-employee in the dispute referred by him to the authorities that, he was working as a daily wager and was abruptly terminated, the scope of reference application would not have been enlarged by the learned Labour Court by directing the Municipal Council to reinstate the respondent-employee on Class-IV post. The only order which Labour Court could have passed in the said reference application was to direct the Municipal Council to reinstate the respondent-

employee as a daily wager.

5. In the circumstances, it appears to me that, the present petition can be disposed of by making the interim order passed by this Court on 05.02.2007 absolute. Order accordingly.

6. It was pointed out by Shri Yenge that the respondent had approached the Industrial Court seeking the relief of permanency, however, the said complaint has been disposed of by the Industrial Court observing that, the present Writ Petition is pending in this Court. The learned counsel also pointed out that, while disposing of the said complaint the Industrial Court has given liberty to the Workmen for initiating fresh proceedings after the Writ Petition is decided. Need not to state that, it would be open for the respondent/workmen to avail the said remedy.

7. With the observations as above, the Writ Petition stands allowed. Rule made absolute in above terms.

(P.R. BORA)
JUDGE