

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

LETTERS PATENT APPEAL NO. 76 OF 2015
WITH CA/6461/2011 IN LPA/76/2015

THE STATE OF MAHARASHTRA
VERSUS
POPAT JABAJI RAKTE

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AGP for Appellant : Shri A.R.Kale.
Advocate for Respondent : Shri S.R. Barlinge.

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**CORAM: S.C. DHARMADHIKARI
AND
MANGESH S. PATIL, JJ.**

DATE :- 27th June, 2017

PC.:

1 Having heard both sides, we do not think that the learned Single Judge was in error in refusing to interfere with the order of the learned Member of the Industrial Court dated 23.12.1993 in Revision (ULP) No.9/1991.

2 By a detailed order, the Member of the Industrial Court recorded a finding that admitted position was that the Employee had worked for more than 240 days continuously in the calender year preceding the date of his termination. No compliance was made with Section 25-F of the Industrial Disputes Act, 1947. In the circumstances the unfair labour practice was apparent. The record reveals it. That the State indulges in it and commits it, is a far serious and grievous charge which

should have been noticed by the Labour Court. The Labour Court failed to take note of the same and perform its duty in law. The very argument that the employee was appointed not against the sanctioned post or not against the post which was in existence, has been considered by the learned Member, Industrial Court. The learned Member, Industrial Court, therefore, directed reinstatement in the service as "Lagwad Kotwal".

3 The State is taking an advantage before us of this direction of the learned Member, Industrial Court and confirmed by the learned Single Judge. They are urging that there is no such post as "Lagwad Kotwal". We are not concerned with the state of affairs prevailing now or during the pendency of the Letters Patent Appeal. At the relevant time, the post was very much in existence and the Respondent/ Employee served on the same. Later on, the circumstances may have changed, but in Government service, these are normal things. There are commensurate jobs and posts to which the persons like the Respondent/ Employee, by securing their pay scales, can be appointed. We do not think that a binding order of the court of law can be ignored or brushed aside or overridden by such exigencies of service as are projected before us and that too by the State which is found to have been indulged, concurrently, in unfair labour practices.

4 In the light of the above, there is no merit in this Letters Patent Appeal. It is dismissed. The Respondent/ Employee can withdraw

the sums deposited in this Court with accrued interest and that can be considered as full and final settlement of all his claims.

5 The pending Civil Application also stands disposed of.

kps

(MANGESH S. PATIL, J.)

(S.C. DHARMADHIKARI, J.)