

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

LETTERS PATENT APPEAL NO. 77 OF 2015

ASHOK KONDIRAM TILEKAR
VERSUS
CHAIRMAN, SHRI SANTA SAWATSHRAM SHIKSHAN SAMITI AND
OTHERS.

...
Advocate for Appellant : Shri M.S.Taur h/f Shri Kakade Amol N..
Advocate for Respondents : Shri N.C.Garud.

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

DATE :- 29th June, 2017

PC.:

1 This Letters Patent Appeal questions the order of the learned Single Judge of this Court allowing the petition of the Management and dismissing the complaint of the Appellant.

2 The learned Single Judge found that the Industrial Court was in gross error in allowing the complaint of unfair labour practice and granting benefits of permanency to the employee like the Appellant who was complaining unlawful denial of the same. Pertinently, the learned Single Judge found that such complaint was made by this employee (Complaint (ULP) No.702/1995) alleging unfair labour practice in the year 1995. He suppressed the material fact from the Court that he was

served with the order of termination dated 24.06.1992. By suppressing this material fact, he was successful in obtaining the relief. Secondly, the Appellant's termination was ineffective, according to the Appellant and the rights are waived by the Management. However, such act of waiver of the Management and continuing him allegedly in services despite the termination order, is not mentioned in the complaint or in an answer to the Writ Petition filed by the Management. There is no explanation for this gross suppression.

3 The employee whose claim is doubtful because he is not in service and is not working, therefore, has no right to claim permanency. The foundation for making such claim is his employment and which employment has come to an end long time back. This view of the learned Single Judge cannot be faulted. It is neither perverse nor vitiated by an error of law apparent on the face of the record.

4 In such circumstances we find no merit in this Letters Patent Appeal and it is dismissed without costs.