

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11303/2016

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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Mr. S. R.Nargolkar for the petitioner
Mr. N. V. Bandivadekar i/b. Sagar A. Mane for the respondent

CORAM : K. K. TATED, J.
DATE : FEBRUARY 7, 2017

P.C.:

1. Heard. By this petition under Article 226 and 227 of the Constitution of India the Petitioner challenges the judgment dated 06.06.2015 passed by the Industrial Court No.1, Maharashtra, Kolhapur in complaint (ULP) No.168/2011 directing the petitioner to grant permanency to the respondent in service from 26.11.2010 along with other benefits attached thereto.

2. The learned counsel for the petitioner submits that the Industrial Court has erred in coming to the conclusion that the respondent is entitled to permanency in service though he was appointed on daily basis, for a fixed term, initially for six months and same was continued for three terms. The learned counsel for the petitioner

submits that the Industrial Court has erred in not appreciating the fact that every employee including a wireman is to be selected by following proper selection procedure. However, initially the respondent was appointed on temporary basis for six months without following due process of law. Hence, the impugned order passed by the Industrial Court is required to be set aside.

3. On the other hand, the learned counsel for the respondent vehemently opposed the Writ Petition. He submits that since 12.11.1997 the respondent is working with the petitioner as a wireman, though initially he was appointed for a fixed period. Thereafter, without following due process of law, the petitioner terminated the respondent on 08.10.1999. Hence, the respondent filed complaint (ULP) No.136/2002 before the Labour Court, Ratnagiri Camp, at Kolhapur. He submits that the said complaint was allowed by the Labour Court by judgment dated 25.03.2008 setting aside the termination order dated 08.10.1999 and directed the petitioner to reinstate the respondent on previous post and with 25% back wages from the date of filing the complaint till reinstatement. He submits that since then the respondent is working with the petitioner.

4. The learned counsel for the respondent submits that as the petitioner failed and neglected to provide him status of permanent employee, he filed complaint (ULP) No.168/2008 before the Industrial Court Kolhapur u/s.28, Item 6, 9, 10 of Schedule IV of the said Act. He submits that the Industrial Court rightly held that the respondent worked for more than 240 days continuously with the petitioner. On the basis of that the Industrial Court passed the impugned order. Hence, there is no question of entertaining the petition.

5. Heard both sides at length. It is to be noted that, in the present proceedings the respondent was working with the petitioner since 1997. Though initially he was appointed three times on temporary basis for 6 months, the Labour Court vide its judgment dated 25.03.2008 in complaint (ULP) No.2236/2002 directed the petitioner to reinstate him in service. That order was not challenged by the petitioner. They accepted the same and reinstated the respondent in his service.

6. It is to be noted that, the respondent was working as a wireman with the petitioner. He was working on permanent post. Moreover, he worked with the petitioner for more than 240 days.

7. Considering these facts and the reasons disclosed by the Industrial Court in the impugned judgment, I do not find any substance in the Writ Petition. Same stands rejected.

8. No order as to costs.

JUDGE