

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

MISCELLANEOUS CIVIL APPLICATION NO.226/2015
IN
WRIT PETITION NO.1592/2003

Smt. Anusaya W/o Punjabrao Ramde and others

..Vs..

Nagar Parishad Kamptee, through its Chief Officer, Kamptee, Tah. Kamptee,
 Distt. Nagpur and another

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATE : 7.6.2017.

Heard Shri S.N. Dandekar, Advocate for the applicants / original petitioners and Shri S.S. Ghate, Advocate for the non-applicant No.1 / original respondent No.1.

The original petitioners seek review of the judgment passed in Writ Petition No.1592/2003 dismissing the petition filed by them. The grievance of the applicants /petitioners is that the judgment of which review is sought is delivered without granting hearing to the petitioners or their Advocate. On merits of the matter, the grievance is that the finding recorded by the Labour Court that Smt. Karuna Harish Bhowate who was employed and given training alongwith petitioners (complainants) was made permanent as Attendant and she continued in the employment though the employment of petitioners was discontinued. It is

submitted that the Industrial Court has committed an error in reversing the finding recorded by the Labour Court that the provisions of Section 2(oo)(bb) of the Industrial Disputes Act are applicable. According to the petitioners, the discontinuation amounted to retrenchment and they could not have been removed without complying with the provisions of Section 25F of the Industrial Disputes Act. To support the submissions, the learned Advocate has relied on the judgment given in the case of *S. M. Nilajkar and others V/s Telecom District Manager, Karnataka* reported in **AIR 2003 SC 3553(1)**.

It is submitted that the judgment passed by this Court dismissing the petition is resulting in hardships and, therefore, the judgment may be reviewed and the petition may be re-heard and decided.

The learned Advocate for the original respondent No.1 has submitted that the petitioners are seeking to raise new ground which is not permissible in review application. It is argued that the reliance placed on the observations of the Labour Court on the point of continuation of Smt. Karuna Harish Bhowate is misdirected as the petitioners had not pleaded any details and have not brought anything on the record to show that because of continuation / absorption of Smt. Karuna Harish Bhowate some right is created in favour of the petitioners.

After hearing the learned Advocates for the respective parties and examining the submissions made by them I find that the contention of the petitioners

relying on the alleged continuation / absorption of Smt. Karuna Harish Bhowate is of no consequence. It is specific case of the respondents that the petitioners and other employees who were engaged to work on Shri Arogya Margadarshika project are discontinued after 31st December, 1993 on completion of the project and none of the employee is continued. The petitioners have not been able to point out that the claim of the respondents is not true and correct. The legality of the findings recorded by the Industrial Court are examined while deciding the petition. It cannot be said that there is any error apparent on the face of the record which necessitates the review of judgment.

The application is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE