

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

WRIT PETITION NO. 2211 OF 2018

SIDDHESHWAR SANGRAM PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Shri N.J. Patil
AGP for Respondent No.1 : Shri S. K. Tambe

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**CORAM : RAVINDRA V. GHUGE, J.
DATED : 13th March, 2018.**

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PER COURT :-

1] The petitioner is aggrieved by the judgment and order dated 27/12/2017 delivered by the Labour Court, Latur, by which Application (IDA) No. 16/2015 filed by the petitioner under section 33-C(2) of the Industrial Disputes Act, 1947 (for short," the ID Act) has been rejected.

2] The learned advocate for the petitioner has strenuously criticized the impugned judgment. He has drawn my attention to the eight grounds formulated by him in the memo of the petition. With his assistance, I have gone through the petition paper book.

3] The petitioner was appointed as a Medical Officer

(Surgeon) (IPHS) under the National Rural Health Mission for the year 2013-2014 by the respondents. He was appointed pursuant to the advertisement that was published in Marathi Daily 'Ekmat' and Marathi Daily 'Sakal'. His monthly remuneration was Rs. 25,000/-. He was given appointment orders on 31-01-2013 and 02-04-2014. The Commissioner, Family Welfare and Director, National Health Mission has given Guidelines, by which, the remuneration of the Medical Officer (Surgeon) was increased from Rs. 25,000/- to Rs.50,000/- under the Guidelines of the Supplementary Budget dated 16/02/2015.

4] The petitioner, therefore, moved the Labour Court claiming recovery of money due from the respondents, who was the employer of the petitioner.

5] The learned AGP appearing on behalf of respondent No. 1 submits that the petitioner is an MBBS Practitioner. Unless he is a workman, the Labour Court can not entertain his application. The respondent is also not an industry as it is discharging sovereign functions under the National Rural Health Programme.

6] It requires no debate that unless the claimant/employee is a workman under Section 2(s) of the ID Act and the respondent is an industry under Section 2(j) of the ID Act, 1947, a proceeding of this nature cannot be entertained.

7] It is also well settled that proceedings under Section 33-C(2) of the ID Act, 1947 can be entertained by the Labour Court if the claim is based on a pre-existing right and an employer employee relationship. In the instant case, the petitioner had attained the age of superannuation applicable to Government servants and after retirement, he entered into a contract with the respondents. The advertisement published also indicated that it was a contractual engagement.

8] Considering the above, the Labour Court concluded that there was no employer-employee relationship between the parties as the petitioner had entered into a contract with the respondent, in as much as, the petitioner was not a workman under Section 2(s) of the ID Act.

9] Considering the above, I do not find that the impugned judgment could be termed as being perverse or

erroneous.

10] This petition, being devoid of merit is, therefore,
dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-