

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

WRIT PETITION NO.3214/2015

The Chief Executive Officer, Zilla Parishad, Camp, Amravati and others

..Vs..

Umakant Ramchandra Saraf and another

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

Court's or Judge's orders

Shri D.M. Kale, Advocate for the petitioners.
Shri W.N. Nayse, Advocate h/f Shri G.G. Bade, Advocate for respondent
No.1.

CORAM : Z.A. HAQ, J.

DATE : 25.1.2018.

Heard.

The respondent No.1 had filed complaint before the Industrial Court under Section 28 read with Section 5 and Item Nos.9 and 5 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 contending that though he was entitled for promotion on the post of Met w.e.f. 1st April, 1989 and on the post of Muster Clerk w.e.f. 20th July, 2005, he was not given promotion on these posts and this amounted to unfair labour practice. The present petitioners / employer opposed the claim of respondent No.1 / employee mainly on the ground that for claiming promotional post of Met, the respondent No.1 was required to submit the experience certificate of Deputy Engineer showing that

he had worked with the department for the period of 10 years.

After considering the rival contentions, by the impugned order, the Industrial Court has accepted the claim of respondent No.1 / employee and has directed the employer to grant benefit of promotion on the post of Met w.e.f. 1st April, 1989 and on the post of Muster Clerk w.e.f. 20th July, 2005.

The learned Advocate for the petitioners has argued that the Industrial Court has failed to appreciate that the respondent No.1 / employee failed to comply with the requirement of submitting the certificate of Deputy Engineer. It is further submitted that the State Government has approved promotion of the respondent No.1 / employee on the post of respondent No.1 w.e.f. 2013 and the respondent No.1 / employee cannot claim benefit from earlier date.

After examining the material placed on record, I find that the Deputy Engineer was party to the proceedings before the Industrial Court and though a hyper-technical objection was raised that the respondent No.1 had not submitted the required certificate of Deputy Engineer, the petitioners have not been able to point out why the Deputy Engineer had not led / produced evidence to oppose the claim of the respondent No.1 / employee that he had worked satisfactorily with the department since 1983 - 1984. The other submission made on behalf of the petitioners that the State Government has approved the promotion of the

respondent No.1 w.e.f. 2013 also cannot be considered as the petitioners have not placed anything on record to show that the claim of respondent No.1 / employee from the dates as considered by the Industrial Court is not justified.

I find that the Industrial Court has properly appreciated the material on record and the conclusions of the Industrial Court cannot be faulted with. There is neither any illegality nor error of jurisdiction which necessitates interference by this Court in the extra-ordinary jurisdiction. The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

The amount deposited by the petitioners with the Registry of this Court be given to respondent No.1 / employee alongwith interest on it, if any.

JUDGE