

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.15348 OF 2019

UDGIR MUNICIPAL COUNCIL THRO ITS CHIEF EXECUTIVE
OFFICER

VERSUS

RANJITA RAJKUMAR KAMBLE AND ANOTHER

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Advocate for Petitioner : Mr.Parag Vijay Barde

AGP for Respondent No.2 : Mr.S.W.Munde

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CORAM : RAVINDRA V. GHUGE, J.

DATE : 18th December, 2019.

PER COURT :-

1. The petitioner Udgir Municipal Council, original respondent No.1 in Complaint (ULP) No.80/2017, is aggrieved by the judgment and order dated 31/07/2019, by which, the complaint has been allowed and the petitioners are directed to consider the claim of the petitioner in accordance with paragraph "B" of the Government Resolution dated 11/07/2019.

2. I have considered the strenuous submissions of the learned Advocate for the petitioner Council, who relies upon the nine grounds formulated in the memo of the petition and submits that the impugned judgment deserves to be quashed and set-aside. With their assistance, I have gone through the petition paper book.

3. The Industrial Court, Latur has passed the following order:-

"1. The complaint is partly allowed.

2. It is declared that the respondent no.1 and 2 indulged in unfair labour practices as per the Item No.9 of Sch.IV of the MRTU & PULP Act, 1971.

3. The respondent no.1 and 2 are directed to cease and desist from such unfair labour practices in future.

4. The respondents are directed to take steps according to paragraph B of Government Resolution dated 11.07.2019 within a period of 1 month from the date of passing of this order and consider the claim of the complainant for grant of compassionate appointment expeditiously.

5. *No order as to costs.*

6. *The proceedings are closed."*

4. It is, therefore, apparent that the Industrial Court has not directed the petitioner to grant compassionate appointment to the complainant. The Industrial Court has directed that the petitioner would follow its Government Resolution, which is applicable to the petitioner establishment and consider the claim of the complainant in accordance with the rules.

5. I find from paragraph No.11 of the impugned judgment that the only defence taken by the petitioner before the Industrial Court was as under:-

"It is not disputed that the husband of the complainant was in the employment of the respondent no.1 and was absorbed in regular service on 01.12.2000. It is also not disputed that the husband of the complainant was in the employment till his death up to 10.03.2015. The counsel for the respondent no.1 emphasised the admission on the part of the complainant that at the time of death of the husband he was taking treatment and not on duty."

6. Considering the above, I find that the petitioner hardly has any ground to contend that the complainant should not be considered for compassionate appointment. A strange defence that, because the husband of the complainant was not on duty due to illness and was taking treatment, would disentitle the complainant, is unsustainable. Such a defence could be taken in a matter of compensation under the Employees Compensation Act, 1993 since the injured person or the deceased person has to meet with an accident "out of and in the course of" his employment. Said law cannot be made applicable in such cases.

7. In view of the above, this petition, being devoid of merits, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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