

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

WRIT PETITION NO.3912/2019

Maharashtra State Secondary and Higher Secondary Education Board & Anr.

..VS..

Sandip Sahebrao Wankhede

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

Court's or Judge's orders

Mr Anand Purchase, Advocate for the petitioners
Mr R. D. Wakode, Advocate for the respondent

CORAM : Z.A.HAQ, J.
DATED : 17/06/2019

Heard.

2] The petitioner-employer has challenged the order passed by the Industrial Court by which the complaint filed by the respondent-employee under Section 28 read with Item No. 5, 6 & 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (For short 'the Act of 1971') is allowed. By the impugned order the Industrial Court has held that the petitioner-employer indulged in unfair labour practice by not regularizing the services of the respondent-employee and providing him all service benefits accordingly.

3] The impugned order is challenged mainly on two grounds:

(i) The Maharashtra State Secondary and Higher Secondary Education Board cannot be said to be Industry

within the meaning of Section 2(j) of the Industrial Disputes Act and therefore, the complaint filed by the respondent-employee under the Act of 1971 was not maintainable.

(ii) The appointment of the respondent-employee was without following the prescribed procedure and therefore, the respondent-employee cannot claim regularization of his services.

4] With the assistance of learned Advocates for the petitioner and the respondent, I have examined the documents placed on record of the petition and I have gone through impugned order.

As far as the first submission is concerned, Industrial Court has recorded in paragraph No. 12 of the impugned order that the board has not led any evidence to support the contention that board will not be governed by the definition of "Industry". The petitioner has not been able to point out before this Court also, that Board will not be covered by the definition of "Industry". The submission made on behalf of the petitioner-Board on this point cannot be examined dehors proper and sufficient material and evidence on record. Hence, the challenge to the impugned order on this ground fails.

5] As far as the other point is concerned, after considering the various judgments including the judgment given by the Hon'ble Supreme Court in the case

of *Maharashtra State Road Transport Corporation & Anr. .v/s. Casteribe Rajya P. Karmachari Sanghatana* reported in **2009 AIR SCW 6104**, the Industrial Court has recorded its conclusion in paragraph No. 16 of the impugned order and finding that 15 posts of peon have been vacant, has directed the Board to regularize the services of the respondent-employee and to make available to him all service benefits from the date of filling of the complaint.

I find that the conclusions of the Industrial Court are based on proper appreciation of facts and legal position and the relief granted in favour of the respondent-employee is also judiciously worked out. It cannot be said that the Industrial Court has committed any illegality or error of jurisdiction which necessitates interference by this Court in the extra-ordinary jurisdiction.

Hence, the writ petition is dismissed. In the circumstances the parties to bear their own costs.

(Z.A.HAQ, J.)