

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

**WRIT PETITION NO.5435/2019**

Zilla Parishad, Wardha and another

..Vs..

Umesh S/o Haridas Rangari

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

Court's or Judge's orders

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Shri P.D. Meghe, Advocate for the petitioners.

**CORAM : Z.A. HAQ, J.**

**DATED : 6.8.2019.**

1]            Heard.

2]            The respondent / employee was appointed as Mustering Assistant-cum-Clerk on 14<sup>th</sup> January, 1984 and continued in the employment till 18<sup>th</sup> January 1988, on which date his services were terminated. The respondent / employee had filed Complaint ULP No.4/1988 before the Labour Court which was allowed by the order dated 22<sup>nd</sup> September, 2004. The Labour Court had directed the petitioners / employer to withdraw the termination order dated 18<sup>th</sup> January, 1988 and to reinstate the employee with continuity of service and full back-wages. This order was challenged by the petitioners / employer before the Industrial Court in Revision ULP No.13/2012 which was dismissed on 30<sup>th</sup> October, 2012. Then the respondent / employee filed Complaint ULP No.220/2016 before the Industrial Court

praying that the employer be directed to take the respondent / employee on CRTE with effect from completion of 5 years continuous service. This complaint is allowed by the impugned order and the employer (present petitioners) are directed to treat the respondent / employee on CRTE on completion of 5 years from the date of his appointment, and to extend all the benefits.

3] According to the petitioners, the respondent / employee is not entitled to be taken on CRTE because as per the Kalelkar Settlement, daily rated employees who were in continuous actual service for 5 years are only entitled to be taken on CRTE. The submission cannot be accepted in the facts of the present case. Though the services of respondent / employee were terminated before he completed 5 years of service, Labour Court by order dated 22<sup>nd</sup> September, 2004 directed the employer to withdraw the termination order dated 18<sup>th</sup> January 1988, and to reinstate the employee with continuity of service and full back-wages. Revision filed by the petitioners / employer against this order is also dismissed. In view of these facts, it has to be treated that the respondent / employee had been in continuous service with the petitioners since 14<sup>th</sup> January 1984 and is entitled to be taken on CRTE on completion of 5 years of service from that date.

4] Another submission on behalf of the

petitioners is that the respondent / employee had filed an application under Section 33C(2) of the Industrial Disputes Act, 1947 after filing Complaint ULP No.220/2016 and this application is allowed by the Labour Court by order dated 7<sup>th</sup> February 2019, and the petitioners are directed to pay an amount of Rs.2,91,540/- to the respondent / employee towards the arrears of back-wages for the period from 18<sup>th</sup> January, 1988 till 22<sup>nd</sup> September, 2004. Relying on these facts, it is argued that the Complaint ULP No.220/2016 could not have been allowed by the Industrial Court. Again this submission cannot be accepted as the claim in Complaint ULP No.220/2016 and claim made by the respondent / employee by application under Section 33C(2) of the Industrial Disputes Act are totally different. Needless to say that the petitioners / employer will be entitled to adjust the amount paid / deposited as per the order passed in proceedings under Section 33C(2) of the Industrial Disputes Act, while determining the amount receivable by the respondent / employee as per the order passed in Complaint ULP No.220/2016.

5] In view of the above, I see no reason to interfere with the impugned order which is passed on proper appreciation of material on record. Hence, the writ petition is **dismissed**. No costs.

JUDGE