

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

WRIT PETITION NO.5444/2019
Zilla Parishad, Wardha and another
..Vs..
Chandu S/o Babulal Mangle

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

Court's or Judge's orders

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 14th January, 1984 and continued in the employment till 18th January, 1988 on which date his services were terminated. The respondent / employee had filed Complaint ULP No.3/1988 before the Labour Court which was allowed by the order dated 22nd September, 2004. The Labour Court had directed the petitioners / employer to withdraw the termination order dated 18th 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.14/2012 which was dismissed on 12th February, 2013. Then the respondent / employee filed Complaint ULP No.219/2016 before the Industrial Court praying that the employer be directed to take the

respondent / employee on CRTE with effect from on 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 22nd September, 2004 directed the employer to withdraw the termination order dated 18th 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 14th 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.219/2016 and this application is allowed by the Labour Court by order dated 7th 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 18th January, 1988 till 22nd September, 2004. Relying on these facts, it is argued that the Complaint ULP No.219/2016 could not have been allowed by the Industrial Court. Again this submission cannot be accepted as the claim in Complaint ULP No.219/2016 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.219/2016.

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