

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9711 OF 2016

Shri Jitendra Haribhau Adhikari Petitioner

Versus

Bhiwandi Nizampur Municipal Corporation Respondents
and Ors.

.....

Mr. Ravindra B. Nair for the Petitioner
Mr. F.A. Wasif a/w Mr. N.R. Bubra for Respondent Nos.1 & 2.

CORAM : S.C. GUPTE, J.

DATE : 8 JANUARY 2020

P.C.

This writ petition challenges two concurrent orders passed by Courts below in a complaint of unfair labour practice filed by the Petitioner. Both Courts below appear to have proceeded on the footing that the Petitioner's original appointment itself was not valid. It is not for the industrial adjudicator to decide whether the appointment was made rightly or wrongly, that is to say, whether it was made under the signature of the right authority or after following the right procedure, in a challenge by the employee to his termination under Section 25-F or 25-G of the Industrial Disputes Act. Since this is the only issue, which is required to be considered in the present petition, it is agreed between learned Counsel for the parties that the impugned order of the

Revisional Court dated 11 September 2015 may be quashed and set aside and the revision application may be remanded to the Industrial Court, Thane for a fresh hearing in accordance with law and in the light of the present order.

2. Accordingly, the writ petition is allowed by quashing and setting aside impugned order of the Industrial Court dated 11 September 2015 and remitting Revision Application (ULP) No.96 of 2014 in Complaint (ULP) No.55 of 2006 to the Industrial Court for fresh hearing in accordance with law in the light of the observations made in the present order. All rights and contentions of the parties on merits are kept open.

(S. C. GUPTE, J.)