

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

WRIT PETITION NO. 1953 OF 2020

State of Maharashtra and others

vs.

Smt. Mirabai w/o Shiraram Tekam

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

Court's or Judge's orders

Shri. N. R. Patil, AGP for petitioners.

CORAM : MANISH PITALE J.

DATED : 13/08/2020

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard the learned AGP on behalf of the petitioners.

3. By this writ petition the petitioners have challenged impugned judgment and order dated 14/03/2019 passed by the Industrial Court, Bhandara whereby Complaint filed by the sole respondent under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, was allowed and the petitioners were directed to give the benefit of permanency to the sole respondent in pursuance of specific Government Resolution (GR).

4. The case of the sole respondent before the Court below was that she was appointed as 'Vankamgar' on daily wages, while she was carrying out the work of regular nature. According to the sole respondent she had completed 240 days of each calendar year of her service since the time of initial appointment. In terms of specific GR she was entitled to benefit of permanency. The sole respondent also placed on record before the Court below, the fact that similarly situated workers had been granted such relief on the strength of the aforesaid GR.

5. Although the petitioners opposed the complaint filed by the sole respondent, the Court below took into consideration the entire material on record and while allowing the complaint filed by the sole respondent, observed as follows :-

“9} It is seen that the complainant has come before the Court claiming that she is rendering her services for respondents since 25/06/1986. Even today, she is working for the respondents. The names of daily wagers used to be inserted in seniority list. The workmen completing their five years service from the year 1987 onwards were made permanent in pursuance of G.R., dated 31/01/1996. The complainant accordingly testified before the Court and sought the directions from this Court to respondents, vide Exhibit No.U-6, for production of certain relevant documents i.e. **muster roll from 01-11-1989 to 30-06-2016, payment voucher 01-11-1989 to 30-06-2016, seniority list year 2000, 2012, 2013-2014, 2015-2016, Government Resolution 31-01-1996 and 16-10-2012.** The respondents, despite the directions from this Court, have failed to produce all these relevant documents. I,

therefore, have no other option except to hold that the documents would have been gone against the interest of the respondents, had the same been produced before this Court. Moreover, respondents have failed to lead the evidence in order to rebut the evidence led by the complainant.

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12} Now, it would be crucial to consider that whether in pursuance of all these proved facts, the complainant is entitled for permanency. In this regard, it is seen that passing of the Government Resolutions dated 31/1/1996 r/w No. Baithak-2010/Pra Kra/ 7/F-9 Mantralaya, Mumbai -32 dated 16/10/2012, is not disputed by the respondents. These Government Resolutions demonstrate that the services of the daily wager (Vankamgar), working for the respondents Department may be regularized subject to that they must be in employment on 01-06-2012, and have completed five years of their services, completing 240 days in each year, during the period lying in between 01-11-1989 to 30-06-2004. The complainant, fulfills all the conditions as laid down in this Government Resolutions. These G.R's., make it clear that the Government of Maharashtra has sanctioned to create as many as, 5089 posts in numbers, to absorb the daily wagers (Vankamgar) working for the respondents Department. Undisputedly the posts of Vankamgar are available with the respondent Department. Undisputedly the co-workmen (Vankamgar), standing on the same footings with the complainant, were made permanent, in pursuance of Government Resolution referred herein above. In view of all these facts and circumstances and in the lights of the observation in the judgments relied by learned Advocate for complainant (cited supra), I am of the opinion that the respondents by depriving the complainant from permanency, despite her entitlement and existence of

sanctioned posts of daily wagers (Vankamgar), have engaged in unfair labour practice as complained of. Complainant, therefore, is entitled for the reliefs, as sought by her, however, from 16/10/2012, only. In view of all these peculiar facts and circumstances the judgment relied by the learned Advocate for respondents is not helpful to them.”

6. Having heard learned AGP and upon perusal of the impugned judgment and order as well as material on record, this Court finds that no error can be attributed to the impugned judgment and order passed by the Court below. The contentions raised on behalf of the petitioners do not have merit in order to justify exercise of writ jurisdiction to interfere with the well reasoned judgment and order passed by the Court below.

7. In view of the above, the writ petition is dismissed. No order as to costs.

JUDGE