

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5566/2006

Nana Pralhad Dhawne Vs. State of Maharashtra & anr.

Office notes Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

None for the petitioner.

Ms. T. H. Khan, Assistant Government Pleader for respondent No. 1.

Shri A. Sambre, Advocate for respondent No. 2.

CORAM : A.S.CHANDURKAR AND VINAY JOSHI, JJ.

DATED : FEBRUARY 05, 2020.

There was no appearance on behalf of the petitioner on 04.02.2020. Today also, there is no appearance on behalf of the petitioner. However, we heard Ms. T. H. Khan, learned Assistant Government Pleader for respondent No. 1 and Shri A. Sambre, learned counsel for the respondent No. 2. We have also perused Writ Petition and the documents filed along with it.

2. It is seen that it is the case of the petitioner that he was appointed on the post of Peon on 11.07.1974. Based on the services rendered by him, the original petitioner sought pensionary benefits. In his service book, the date of entry in service was shown as 01.12.1994. He therefore, filed complaint (ULP) No. 622/2001 with a prayer that the correct date of entry in service be recorded as being 11.07.1974 and not 01.12.1994. The Industrial Court by judgment dated 04.10.2002 recorded a finding that the appointment order dated 01.12.1994 appeared to be *void ab initio*. It was further held that the petitioner was appointed by the Municipal Council, Wardha from 23.01.1996. In view of the interim direction of the Industrial Court, by observing

that the direction sought by the original petitioner in the complaint to correct the date of entry in service from 01.12.1994, that relief could not be granted. The complaint was accordingly dismissed. This order was thereafter confirmed by this Court in Writ Petition No. 1730/2003. Thus, the finding recorded that the order dated 01.12.1994 was unauthorizedly passed by the Administrative Clerk without having any power to pass such order, has attained finality.

3. In the present Writ Petition, it is again prayed that Municipal Council should grant pensionary benefits based on the order of appointment dated 01.12.1994. In view of the fact that it has already been held by the Industrial Court in Complaint (ULP) No. 622/2001 that the petitioner was not appointed legally on 01.12.1994 but was so appointed only on 23.01.1996, the relief sought in the Writ Petition cannot be granted. The findings which have attained finality cannot be re-opened. In that view of the matter, the Writ Petition stands dismissed. Rule is discharged. No costs.

JUDGE

JUDGE