

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

WRIT PETITION NO. 1481 OF 2011

Smt. Anita Yuwraj Gondule Vs. The Superintending Engineer, MSEB,
Aurangabad.

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

Court's or Judge's orders.

Shri Kaustubh Deogude, Advocate for petitioner.

CORAM : MANISH PITALE, J.
DATE : DECEMBER 08, 2020.

By this petition the petitioner has challenged orders passed by the Labour Court and the Industrial Court at Nagpur, whereby her claim of having been illegally terminated from services has been rejected.

(2) The case of the petitioner was that she had been working as a Sweeper with the respondent since the year 1979 and that when her service stood terminated on 28.05.1997, w.e.f. 31.05.1997, the relevant provisions of law were not satisfied, as a result of which she was entitled to claim that termination of her service was illegal and that the same deserves to be set aside with consequential benefits being granted to her.

(3) The Labour Court in the first instance found on facts after appreciating oral and documentary material placed on record by the rival parties, that the petitioner had failed to demonstrate that she had been in continuous service since the year 1979 and on clear vacant post with the

respondent. The Labour Court came to the considered conclusion that the petitioner had been employed on purely temporary basis and that therefore, she could not claim any relief. In fact, the Labour Court took note of the fact that an earlier complaint seeking regularization was filed by the petitioner before the Industrial Court, which also stood dismissed. On the basis of such finding, the Labour Court dismissed the complaint.

(4) The petitioner thereafter approached the Industrial Court at Nagpur by way of revision petition, which was dismissed on 02.02.2010. The Industrial Court specifically took note of the material on record and found that the petitioner was only working on part time basis as a Sweeper and that no case under Section 25F of the Industrial Disputes Act was at all made out in her favour by the petitioner.

(5) Learned counsel appearing for the petitioner in the present writ petition invited attention of this Court to the letter dated 28.05.1997, whereby the service of the petitioner terminated w.e.f. 31.05.1997, affidavit in lieu of evidence of the concerned officer of the respondent and cross-examination, as also the judgments passed by the Labour Court and Industrial Court. It was submitted that if the petitioner was really being treated as contractual employee by the respondent, there was no necessity to refer to her salary in the letter dated 28.05.1997 and that therefore, petitioner is entitled to claim that Section 25F of

the aforesaid Act was not complied with by the respondent.

(6) This Court has considered the submissions advanced on behalf of the petitioner, as well as the documents and material on record. It cannot be said that the two Courts below have erred in concurrently holding that the petitioner failed to support her claim of having worked with the respondent since the year 1979. There is no material on record to support such a contention. Even on the question of alleged violation of Section 25F of the aforesaid Act, this Court perused letter dated 28.05.1997 issued by the respondent wherein it was categorically stated that petitioner was engaged absolutely on contractual basis and not as an employee and yet retrenchment compensation as also salary of one month in view of notice was paid to the petitioner.

(7) A perusal of the aforesaid document would show that even if Section 25F of the aforesaid Act applies to the present case, the petitioner has failed to make out any violation of the statutory provision for this Court to interfere with the concurrent orders passed by the two Courts below.

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

JUDGE

Wagh