

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

WRIT PETITION NO. 7085 OF 2019

PETITIONER :- Mahindra and Mahindara Ltd., Plot No.
(Ori. Respondent) F-1/F-7, MIDC Industrial Area, Hingna Road, Nagpur-440 016, Through its Manager.

...**VERSUS**...

RESPONDENTS :- 1) Sunil Namdeorao Zade, Age 49 years,
(Ori.Complainant) Occ.Nil, R/o At Post Paonar, Tahsil & Dist. Wardha.

2) Member, Industrial Court, Nagpur,
Temple Road, Civil Lines, Nagpur.

WRIT PETITION NO. 7086 OF 2019

PETITIONER :- Mahindra and Mahindara Ltd., Plot No.
(Ori. Respondent) F-1/F-7, MIDC Industrial Area, Hingna Road, Nagpur-440 016, Through its Manager.

...**VERSUS**...

RESPONDENTS :- 1) Ramesh Sitaramji Titare, Age 50 years,
(Ori.Complainant) R/o Plot No.215, Near Hawrapeth Bridge Bhagwan Nagar Road, Nagpur.

2) Member, Industrial Court, Nagpur,
Temple Road, Civil Lines, Nagpur.

WRIT PETITION NO. 7088 OF 2019

PETITIONER :- Mahindra and Mahindara Ltd., Plot No.

(Ori. Respondent) F-1/F-7, MIDC Industrial Area, Hingna Road, Nagpur-440 016, Through its Manager.

...VERSUS...

RESPONDENTS :- 1) Vishweshwar Soniramji Hanwatkar, R/o. Matoshri Nagar, Amar Nagar Road, Ward No.2, Plot No.6, Wanadongri, Tahsil Hingna, Dist. Nagpur.
(Ori.Complainant) 2) Member, Industrial Court, Nagpur, Temple Road, Civil Lines, Nagpur.

WRIT PETITION NO. 7156 OF 2019

PETITIONER :- Mahindra and Mahindara Ltd., Plot No. F-1/F-7, MIDC Industrial Area, Hingna Road, Nagpur-440 016, Through its Manager.

...VERSUS...

RESPONDENTS :- 1) Sanjay Rameshwar Mhatre, At & Post Sonegaon, Tah.Chandur Railway, Distt. Amravati.
2) Member, Industrial Court, Nagpur, Temple Road, Civil Lines, Nagpur.

WRIT PETITION NO. 7192 OF 2019

PETITIONER :- Mahindra and Mahindara Ltd., Plot No. F-1/F-7, MIDC Industrial Area, Hingna Road, Nagpur-440 016, Through its Manager.
(Ori. Respondent)

...VERSUS...

RESPONDENTS :-
(Ori.Complainant)

1. Vinod Trambakrao Dhage, Aged about Major, Occ.Nil, R/o c/o. B.K.Katkar, Chinchpura, Ward No.1, Tahsil Saoner, District Nagpur.
2. Manoj Gulabsingh Thakur, aged about major, Occ. Nil, R/o. C/o. S.M.Khawase, Gedam Layout, I.C. Chowk, Plot No.62, Hingna Road, Nagpur, Dist. Nagpur.
3. Tarachand Gulabrao Bhalerao, aged about major, Occ. Nil, R/o Plot No.274, Sahyog Nagar, Nari Road, Uppalwadi, Post Nagpur, Dist. Nagpur.
4. Vijay Rangraoji Mohod, aged about major, Occ.Nil, R/o Matoshri Nagar, Near Toll Naka, Wanadongri, Hingna Road, Nagpur, Dist. Nagpur.
5. Sahin Manoharrao Kale, aged about major, Occ. Nil, R/o Plot No.D-5, Dobi Nagar Layout, Narendra Nagar, C/o. Angad Bhonsle, Nagpur, Dist. Nagpur.
6. Kishor Shrikrishna Dapurkar, aged about major, Occ. Nil, R/o c/o Haribhau Bale, New Krishnarpan Colony, Near Nawathe Plot, Amravati.
7. Member, Industrial Court, Nagpur, Temple Road, Civil Lines, Nagpur.

WRIT PETITION NO. 7538 OF 2019

PETITIONER :-

Mahindra and Mahindara Ltd., Plot No.

(Ori. Respondent) F-1/F-7, MIDC Industrial Area, Hingna Road, Nagpur-440 016, Through its Manager.

...VERSUS...

RESPONDENTS :- 1) Nasir s/o Yusuf Kazi, Aged about major,
(Ori.Complainant) Occ.Nil, R/o 4 LIG, Mhada Colony,
Electric Zone, Hingna Road, Nagpur.

2) Member, Industrial Court, Nagpur,
Temple Road, Civil Lines, Nagpur.

WRIT PETITION NO. 7539 OF 2019

PETITIONER :- Mahindra and Mahindara Ltd., Plot No.
(Ori. Respondent) F-1/F-7, MIDC Industrial Area, Hingna Road, Nagpur-440 016, Through its Manager.

...VERSUS...

RESPONDENTS :- 1) Ravindra Shridharrao Umratkar, Aged
(Ori.Complainant) about 44 years, R/o At & Post Kopra
(Jankar), Dighi, Tah. Bhabulgaon, Distt.
Yavatmal.

2) Member, Industrial Court, Nagpur,
Temple Road, Civil Lines, Nagpur.

WRIT PETITION NO. 7540 OF 2019

PETITIONER :- Mahindra and Mahindara Ltd., Plot No.
(Ori. Respondent) F-1/F-7, MIDC Industrial Area, Hingna Road, Nagpur-440 016, Through its Manager.

...VERSUS...

- RESPONDENTS :- 1) Anil Kesharao Gotmare, Aged about 41,
(Ori.Complainant) years, R/o Plot No.24, Rashtrasant Nagar, Zingabai Takli, Nagpur.
- 2) Member, Industrial Court, Nagpur,
Temple Road, Civil Lines, Nagpur.

WRIT PETITION NO. 7541 OF 2019

PETITIONER :- Mahindra and Mahindara Ltd., Plot No.
(Ori. Respondent) F-1/F-7, MIDC Industrial Area, Hingna Road, Nagpur-440 016, Through its Manager.

...VERSUS...

- RESPONDENTS :- 1) Rajkumar Krushnarao Ghawade, Aged
(Ori.Complainant) about 41 years, R/o At & Post Dhabha, Tah.Bhabulgaon, Distt. Yavatmal.
- 2) Member, Industrial Court, Nagpur,
Temple Road, Civil Lines, Nagpur.

WRIT PETITION NO. 7542 OF 2019

PETITIONER :- Mahindra and Mahindara Ltd., Plot No.
(Ori. Respondent) F-1/F-7, MIDC Industrial Area, Hingna Road, Nagpur-440 016, Through its Manager.

...VERSUS...

- RESPONDENTS :- 1) Milind Bhaurao Dhamande, Aged about

(Ori.Complainant) 52 years, R/o Sandip Mangalam Road,
New Market, Vitthalwadi, Distt.
Yavatmal.

2) Member, Industrial Court, Nagpur,
Temple Road, Civil Lines, Nagpur.

Mr.M.G.Bhangde, Senior Counsel a/b Mr.R.B. Puranik & Mr. M.R.
Puranik, counsel for the petitioner-Company.

Mr.S.P. Dharmadhikari, Senior Counsel a/b Mr.M.V.Mohokar,
counsel for the respondents-workmen.

Mr.A.M.Balpande, A.G.P for the respondent-Member,
Industrial Court, Nagpur.

CORAM : MANISH PITALE, J.

DATE OF RESERVING THE JUDGMENT : 27.10.2020.

DATE OF PRONOUNCING THE JUDGMENT: 27.11.2020.

J U D G M E N T

1) Heard.

2) **Rule.** Rule made returnable forthwith. These writ
petitions are heard finally with the consent of the learned counsel
for the parties.

3) The petitioner-Company has approached this Court by
filing these writ petitions, challenging judgments and orders

passed by the Industrial Court at Nagpur, whereby complaints filed by the first respondents in these writ petitions i.e. the workmen have been allowed and it has been held that the petitioner-Company indulged in unfair labour practice. Consequent to such finding rendered against the petitioner-Company, the Industrial Court has granted relief to the respondents-workmen by directing that the petitioner-Company shall provide employment to them and further to regularize their employment by granting them permanency from the dates of filing of the complaints. A further direction has been granted in favour of the respondents-workmen to the effect that they shall be granted continuity in service from the initial date of employment along with monetary benefits, including wages from the dates of filing of complaints. This Court granted *ad interim* stay in some of the writ petitions, while issuing notice and in some writ petitions it was directed that coercive steps shall not be taken for implementing the impugned judgments. The petitioner-Company has approached this Court raising various grounds of challenge, but before referring to them, it would be appropriate to first refer

to the background facts leading up to filing of the present writ petitions.

4) The petitioner is a limited company having its establishments in various parts of the country, including an establishment at the Maharashtra Industrial Development Corporation Area, Hingna Road, Nagpur, wherein the petitioner-Company manufactures tractors and components. It is governed by the provisions of the Maharashtra Industrial Relations Act, 1946. Although initially the petitioner-Company used to manufacture agricultural implements, hydraulic control valves and components of jeeps and tractors, around the year 1990 and onwards the petitioner-Company started manufacturing tractors and its components in the aforesaid establishment at Nagpur. Due to fluctuation of demand in the market, the petitioner-Company was required to engage temporary workers over and above the strength of permanent workers, as there was temporary increase in work of permanent nature during the period between 1990 and 2001. It is during this period that the respondents-workmen were employed in the aforesaid establishment of the petitioner-

Company for specific periods of time. The last dates of employment of the respondents-workmen herein range from the year 1987 to the year 2001. It is undisputed that the respondents-workmen approached the Industrial Court in the years 2010-2011, by filing complaints seeking direction for regularization in employment.

5) But before this Court refers to the complaints filed by the respondents-workmen herein, it would be relevant to mention the fact that 207 workers employed temporarily during the aforesaid period between 1990 and 2001 had filed complaints under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as "Act of 1971") seeking permanency. By a common order dated 19/03/2003, the said complaints were partly allowed and direction was given to the petitioner-Company to grant permanency to 149 such temporary employees, who had completed 240 days of service. The petitioner-Company challenged the said common order before this Court. On 26/04/2003, an agreement was executed between the petitioner-

Company and the workmen, represented by a registered trade union, whereby permanency was granted to 155 workmen, including the aforesaid 149 temporarily employed workmen. It is relevant that 36 employees, who were denied relief by the Industrial Court, had also approached this Court and only 151 employees accepted the said agreement and joined employment of the petitioner-Company. The aforesaid writ petitions were decided by common judgment and order dated 29/04/2005, by a learned Single Judge of this Court. The writ petitions filed by the petitioner-Company were dismissed while those filed by the employees were allowed and direction of permanency in their cases was also granted. The said judgment and order of the learned Single Judge of this Court was challenged by the petitioner-Company in a Letters Patent Appeal before the Division Bench of this Court. The appeal was dismissed and the petitioner-Company challenged the said judgment and order before the Hon'ble Supreme Court by filing Special Leave Petitions.

6) On 03/12/2009, the Hon'ble Supreme Court set aside the judgment and order of the Division Bench of this Court and

remanded the matters back for fresh consideration in terms of observations made in the order of the Hon'ble Supreme Court. Upon remand, by judgment and order dated 04/03/2015, a Division Bench of this Court dismissed the appeals filed by the petitioner-Company, which in turn was challenged before the Hon'ble Supreme Court in Special Leave Petitions. At this stage, there were only 13 workmen who were agitating their cause, while other workmen had settled the matter with the petitioner-Company. On 29/04/2015, the petitioner-Company entered into agreements with the said remaining workmen also. This agreement specifically stated in Clause-4 that judgments of the learned Single Judge and Division Bench of this Court shall not be treated as binding precedents. Consequently, on 03/07/2015, the Hon'ble Supreme Court disposed of the Special Leave Petitions as withdrawn, keeping all questions of law open and directing that the judgments and orders passed by the Division Bench of this Court dated 29/04/2005 and 04/03/2015, shall not operate as binding precedents.

7) It is also relevant that 30 complaints had been filed in

the year 2004 by workmen against the petitioner-Company, again claiming permanency and that by a common order dated 25/11/2005, such complaints were partly allowed, granting permanency to the workmen from the dates of filing of their complaints. The writ petitions filed by the petitioner-Company challenging the said judgment and order were dismissed on 19/09/2006 by a learned Single Judge of this Court. A challenge raised to the same by way of Letters Patent Appeal before Division Bench of this Court terminated in disposal of the appeals in terms of compromise *pursis* filed by the parties. Thus, it is evident that workmen employed during the period between 1990 and 2001 had filed complaints and pursued them before the Industrial Court in the years 2001 and 2004, which ultimately stood disposed of in terms of the aforesaid agreements between the parties.

8) The respondents-workmen in these writ petitions chose to approach the Industrial Court in the years 2010-2011, claiming regularization in employment and permanency. As noted above, the last dates of employment of the respondents-workmen herein pertained to the years 1987 to 2001. The respondents-

workmen herein were employed for different periods of time, yet they chose to approach the Industrial Court by filing complaints for the first time in the years 2010-2011. The following chart gives the relevant details of the respondents-workmen herein.

Sr. No.	Writ Petn. No.	Name of Employee	Period of Employment	Last Date in Employment	Date of Filing of Complaint
1.	7085 of 2019	Sunil Zade	09.05.1994 to 18.07.1994 22.07.1994 to 22.09.1994 08.10.1994 to 04/12/1994	04.12.1994	29.11.2011
2.	7086 of 2019	Ramesh Titare	01.12.1990 to 30.11.1991	30.11.1991	04.07.2011
3.	7088 of 2019	Vishwe-shwar Hanwatkar	06.02.1999 to 30.03.1999 11.11.1999 to 11.1999 04.12.1999 to 24.01.2000 04.03.2000 to 07.04.2000	07.04.2000	12.08.2011
4.	7156 of 2019	Sanjay Mhatre	19.10.2000 to 11.2000 21.11.2000 to 15.01.2001 18.01.2001 to 23.03.2001	23.03.2001	04.07.2011
5.	7192 of 2019	Vinod Dhage Manoj Thakur Tarachand	23.12.1994 to 03.06.1995 08.02.1996 to	03.06.1995 27.05.1996	25.08.2010

Sr. No.	Writ Petn. No.	Name of Employee	Period of Employment	Last Date in Employment	Date of Filing Complaint
		Vijay Mohad Sachin Kale Kishor	27.05.1996 02.12.1989 to 11.06.1990 06.04.1987 to 13.10.1987 23.11.1997 to 31.03.1998 21.10.2000 to 31.03.2001	11.06.1990 13.10.1987 31.03.1998 31.03.2001	
6.	7538 of 2019	Nasir Kazi	22.07.1989 to 19.09.1989 24.09.1989 to 20.11.1989 21.11.1989 to 18.12.1989 01.12.1990 to 30.05.1991	30.05.1991	04.09.2010
7.	7539 of 2019	Ravindra Umratkar	27.03.1995 to 23.05.1995 01.06.1995 to 20.07.1995	20.07.1995	12.12.2011
8.	7540 of 2019	Anil Gotmare	16.10.2000 to 18.11.2000	18.11.2000	30.03.2010
9.	7541 of 2019	Raj Kumar Ghawade	29.01.1995 to 28.03.1995 08.04.1995 to 04.06.1995 17.06.1995 to 30.07.1995	30.07.1995	09.12.2011
10.	7542 of 2019	Milind Dhamande	01.07.1994 to 13.09.1994 23.09.1994 to 15.11.1994 20.11.1994 to	27.08.1995	12.12.2011

Sr. No.	Writ Petn. No.	Name of Employee	Period of Employment	Last Date in Employment	Date of Filing of Complaint
			31.12.1994 03.01.1995 to 31.01.1995 29.06.1995 to 27.08.1995		

9) In the aforesaid complaints filed by the respondents-workmen, it was specifically claimed that the cause of action was of a continuous nature and that although the last dates of employment of the respondents-workmen had been number of years ago, considering the Model Standing Orders, which undisputedly applied to the petitioner-Company, the respondents-workmen were in “uninterrupted service” under Clause 2(g)(viii) of the Model Standing Orders. It was claimed that since the petitioner-Company had continuously breached Clauses 4-B, 4-C, 4-D and 4-E of the Model Standing Orders, the respondents-workmen were entitled to raise their grievances in the years 2010-2011, for claiming reliefs of permanency with continuity of service and consequential benefits. The complaints were opposed vehemently by the petitioner-Company, claiming that they were

hopelessly barred by limitation and that the theory of continuous and recurring cause of action pressed on behalf of the respondents-workmen was unacceptable. The rival parties led evidence in support of their respective stands.

10) By the judgments and orders passed by the Industrial Court, the said complaints of the respondents-workmen were allowed and the petitioner-Company was directed to provide employment to the respondents-workmen with further directions to regularize their employment, granting them permanency from the dates of filing of the complaints including monetary benefits from the said dates. In two cases, the Industrial Court alternatively directed the petitioner-Company to pay compensation to the tune of Rs.7,50,000/- to the respondents-workmen.

11) In the impugned judgments and orders, the Industrial Court accepted the contention regarding continuous and recurring cause of action, specifically relying upon Clause 2(g)(viii) of the Model Standing Orders, holding that the respondents-workmen

had uninterrupted service to their credit as they were forced into “involuntary unemployment” by the petitioner-Company. The complaints were held to be within limitation for the said reason. It was found that the petitioner-Company had indulged in unfair labour practices, as it failed to follow the mandate of Clauses 4-B, 4-C, 4-D and 4-E of the Model Standing Orders. It was found that the respondents-workmen were unfairly employed for short spells by giving temporary breaks, only in order to deprive them the benefit of permanency in employment; that the petitioner-Company had failed to maintain waiting list of temporarily employed workmen like the respondents-workmen herein and that the petitioner-Company had failed to give priority to such workmen, while employing fresh and junior workmen from the market when work of permanent nature arose in the establishment. The Industrial Court held that the aforementioned judgments of Division Bench and learned Single Judge of this Court in favour of workmen of the same establishment, operated as binding precedents, despite specific observation of the Hon’ble Supreme Court that they shall not operate as binding precedents.

12) Aggrieved by the said judgments and orders of the Industrial Court at Nagpur in favour of the respondents-workmen, the petitioner-Company has approached this Court by filing these writ petitions. As noted above, while issuing notices in these writ petitions, this Court granted interim stay of the impugned judgments and orders of the Industrial Court. When these writ petitions were taken up for final hearing, rival parties made their submissions by treating Writ Petition No.7085 of 2019, as the lead petition and the learned counsel representing rival parties were heard on that basis.

13) Mr.M.G.Bhangde, learned Senior Counsel assisted by Mr.R.B.Puranik and Mr. Mihir Puranik, learned Advocates representing the petitioner-Company submitted that the impugned judgments and orders passed by the Industrial Court were wholly unsustainable and that they deserved to be set aside. It was submitted that the direction given by the Industrial Court in favour of the respondents-workmen for grant of permanency and consequential benefits, was completely flawed because the respondents-workmen were admittedly not in employment of the

petitioner-Company when the complaints were filed before the Industrial Court. It was submitted that the complaints were filed by the respondents-workmen after periods of 9 to 23 years of cessation of their employment. It was submitted that the complaints were not maintainable for the reason that direction of permanency could never be granted to the respondents-workmen. It was further submitted that the respondents-workmen had been employed for specific periods of time and their services had been terminated on completion of such periods and it was an admitted position that the respondents-workmen had never challenged such termination of their services. It was pointed out that the complaints could not have been entertained in the absence of any challenge to the termination of their services and that in any event the question of termination of their services could have been challenged only before the Labour Court, thereby demonstrating that the Industrial Court had no jurisdiction to entertain the complaints.

14) It was further submitted that the complaints suffered from the bar of limitation because such complaints filed under

section 28 of the Act of 1971 for unfair labour practices under Items 5 and 9 of Schedule IV to the Act of 1971, could have been filed only within 90 days from the date of alleged occurrence of the unfair labour practices. It was submitted that the admitted facts in the present cases demonstrated that the complaints were hopelessly barred by limitation. It was further submitted that the finding of the Industrial Court on continuous and recurring cause of action under clause 2(g)(viii) of the Model Standing Orders, was wholly unsustainable and that the complaints clearly suffered from delay and laches.

15) It was further submitted that the Industrial Court committed a grave error in proceeding on the basis that the aforementioned judgments of the Division Bench and learned Single Judge of this Court were binding, despite the specific observation of the Hon'ble Supreme Court in the order dated 03/07/2015, that the said judgments shall not operate as binding precedents. The learned senior counsel appearing for the petitioner-Company submitted that there was no live dispute between the parties in the present case and there was total

absence of pleadings and evidence on the part of the respondents-workmen regarding any willingness on their part to work with the petitioner-Company after their periods of employment were over. On this basis, it was submitted that the Industrial Court erred in applying clause 2(g)(viii) of the Model Standing Orders and further in holding that the petitioner-Company had violated Clauses 4-B, 4-C, 4-D and 4-E of the Model Standing Orders. On this basis, it was submitted that the writ petitions deserved to be allowed and the complaints filed by the respondents-workmen deserved to be dismissed.

16) Mr.S.P.Dharmadhikari, learned Senior Counsel appearing with Mr. M.V.Mohkar, learned Advocate representing the respondents-workmen in these writ petitions, submitted that the interpretation of the clauses of the Model Standing Orders by the Industrial Court, was fully justified and that the petitioner-Company had indeed indulged in unfair labour practices. It was submitted that the mandate of the aforesaid clauses of the Model Standing Orders was that the petitioner-Company ought to have maintained a waiting list of temporarily employed workmen like

the respondents-workmen herein, so that the moment work of permanent nature arose in the establishment, the respondents-workmen could be offered employment. It was submitted that the pleadings and evidence submitted on behalf of the petitioner-Company before the Industrial Court clearly demonstrated that no such waiting list was maintained and that the respondents-workmen were never offered employment, while other workmen were employed from the market, thereby showing that the petitioner-Company had indulged in unfair labour practices under items 5 and 9 of Schedule IV of the Act of 1971.

17) It was submitted that such an unfair labour practice occurred on each occasion that the respondents-workmen herein were deprived of work and others were offered employment. It was further submitted that since unemployment was foisted on the respondents-workmen involuntarily, clause 2(g)(viii) of the Model Standing Orders squarely applied and the respondents-workmen continued to be in 'uninterrupted service' of the petitioner-Company. On this basis, it was submitted that the industrial Court was justified in holding that the complaints were

neither barred by limitation, nor did they suffer from delay and laches.

18) It was further submitted that the Industrial Court was justified in proceeding on the basis that the aforementioned judgments of the Division Bench and the learned Single Judge of this Court were binding precedents, insofar as the Industrial Court was concerned. It was submitted that although the Hon'ble Supreme Court had indeed directed in order dated 03/07/2015, that the said judgments shall not operate as binding precedents, such an observation would strictly operate only between the parties before the Hon'ble Supreme Court. It was then submitted that the Hon'ble Supreme Court had not discussed the merits of the matter or the issues raised on behalf of the rival parties, while making the aforesaid observation. It was further submitted that if nothing else, the aforementioned judgments of the Division Bench and the learned Single Judge of this Court had persuasive value before this Court. It was then specifically contended that the said observation of the Hon'ble Supreme Court would not apply to judgment and order dated 19/09/2006, passed by a learned

Single Judge of this Court, pertaining to complaints filed in the year 2004, because the same did not reach the Hon'ble Supreme Court; there was no agreement between the parties that the same would not be treated as a binding precedent and there was no consequent direction by the Hon'ble Supreme Court regarding the said judgment. It is relevant that in this context, the learned Senior Counsel appearing for the petitioner-Company immediately brought to the notice of this Court that the aforesaid subsequent judgment of the learned Single Judge of this Court had referred to the Division Bench judgment and the judgment of the learned Single Judge, which had reached the Hon'ble Supreme Court and that therefore, by implication the said subsequent judgment of the learned Single Judge also could not operate as a binding precedent.

19) It was further submitted by the learned senior counsel appearing for the respondents-workmen that in the pleadings and evidence, it was specifically stated on behalf of the petitioner-Company that the services of the respondents-workmen were discontinued due to unsatisfactory performance. It was submitted

that not an iota of evidence was led on behalf of the petitioner-Company to support such an assertion. On this basis, it was submitted that the respondents-workmen had clearly made out a case of unfair labour practices on the part of the petitioner-Company and that the impugned judgments and orders did not deserve any interference. It was also submitted that since there was no doubt about the fact that the respondents-workmen had been able to prove unfair labour practices on the part of the petitioner-Company, such a declaration ought to be upheld by this Court and perhaps on the question of relief, this Court could mould the same in the facts and circumstances of each case.

20) The learned senior counsel representing the rival parties referred to number of judgments, which shall be dealt with during the course of this judgment.

21) Mr. Amit Balpande, learned Assistant Government Pleader appeared on behalf of the formal respondents No.2 in these writ petitions.

22) Having heard the learned senior counsels representing the rival parties, this Court perused the documents on record, as also the provisions of law and various judgments relied upon by the rival parties. The contention raised on behalf of the petitioner-Company regarding necessity of the respondents-workmen being in employment for maintaining complaints before the Industrial Court, is intertwined with the question as to whether the respondents-workmen could be said to be in “uninterrupted service” as defined under clause 2(g)(viii) of the Model Standing Orders. It is the interpretation of the said clause, which would be the crucial factor in analyzing whether the Industrial Court was justified in holding in favour of the respondents-workmen. There is no dispute about the fact that the Model Standing Orders apply in the present cases. Before proceeding to discuss the rival contentions in this regard, it would be appropriate to reproduce the relevant portions of the Model Standing Orders. The said portions read as follows:

“**Clause (2)** Words and expressions not defined in these orders shall have the meanings assigned to them under the Bombay Industrial Relations Act, 1946.

(g) “Uninterrupted Service” includes service interrupted on account of any of the following reasons, namely: –

- (i) Sickness, as certified by a doctor of Employees’ State Insurance Scheme where such scheme is applicable, or elsewhere by a Registered Medical Practitioner.
- (ii) accident.
- (iii) authorised leave.
- (iv) lay-off as defined in the Industrial Disputes Act, 1947 (XIV of 1947)
- (v) strike which is not illegal,
- (vi) Lock-out,
- (vii) cessation of work which is not due to any fault of the workmen concerned.
- (viii) involuntary unemployment.

Clauses

4-B. Badli register.--- (1) Wherever the *badli* system prevails the Manager shall maintain a register of *badlis* shiftwise containing the following particulars namely:-

- (i) their names and addresses,
- (ii) the nature of work or occupation in which they were employed;
- (iii) the shifts in which they were working while in employment,
- (iv) the wages paid to them during employment, and
- (v) the dates of termination of their services.

The names of *badlis* who are found to be irregular in attendance or inefficient in work; may be removed from such register after giving them sufficient opportunity to improve.

(2) All temporary vacancies of permanent workmen shall be filled by appointing their *badlis* whose names are entered in the register maintained under sub-clause (1) such appointment shall be made on the basis of seniority-cum-regularity in attendance.

(3) In filling permanent vacancies in any class of occupation in the establishment, *badlis* who have worked in that class of occupation shall be given preference wherever they are employed. Subject to clause 4-C, *badlis* appointed in such

vacancies shall be made permanent on the basis of seniority-cum-regularity in attendance. Where *badli* system does not prevail, temporary workmen shall be given preference.

4-C. Confirmation of badli or temporary operatives – A *badli* or temporary workman who has put in 190 days' uninterrupted service in the aggregate in any establishment of seasonal nature or 240 days "uninterrupted service" in the aggregate in any other establishment, during a period of preceding twelve calendar months, shall be made permanent in that establishment by order in writing signed by the Manager, or any person authorised in that behalf by the Manager, irrespective of whether or not his name is on the muster roll of the establishment throughout the period of the said twelve calendar months.

Explanation.– For purpose of this clause any period of interrupted service, caused by cessation of work which is not due to any fault of the workman concerned shall not be counted for the purpose of computing 190 days or 240 days, or, as the case may be, for making a *badli* or temporary workman permanent.

4-D. Waiting List.– (1) The Manager shall maintain a waiting list of all temporary workmen whose services have been terminated on account of the completion of the work for which they were appointed or on account of the expiry of the period for which they were employed, containing the following particulars, namely:-

- (i) their names and addresses,
- (ii) the nature of work or occupation in which they were employed,
- (iii) the wages paid to them during employment, and
- (v) the dates of termination of their services.

(2) Whenever any vacancies in the establishment are required to be filled, the persons included in the waiting list maintained under sub-clause (1) shall be given preference after taking into consideration the nature of work done by them

while in employment or the occupation in which they were employed, and on the basis of the aggregate of their services in the establishment prior to the termination of their services.

4-E. Persons in waiting list to be given priority.— No person whose name is not entered in the waiting list maintained under clause 4-D shall be appointed in the establishment *badli* or temporary workman, unless all person included in that list have been provided with employment in the establishment.”

23) The crucial question is, as to whether the respondents-workmen herein could be said to be in uninterrupted service because ‘involuntary unemployment’ was foisted upon them under clause 2(g)(viii) of the Model Standing Orders. The Industrial Court has come to a conclusion in favour of the respondents-workmen that since the petitioner-Company violated mandate of clauses 4-B, 4-C, 4-D and 4-E of the Model Standing Orders and failed to offer employment to the respondents-workmen when work of permanent nature arose in the establishment, the unemployment of the respondents-workmen was involuntary and therefore, the respondents-workmen were covered under the definition of “uninterrupted service” as per the Model Standing Orders. It is on this basis that the aspect of continuous and

recurring cause of action was also held in favour of the respondents-workmen.

24) But, before considering the aspect of continuous and recurring cause of action, it would be appropriate to first analyze as to whether the respondents-workmen were rightly held to be in 'uninterrupted service' of the petitioner-Company as per clause 2(g)(viii) of the Model Standing Orders. A finding in favour of the respondents-workmen on this question would repel the contention raised on behalf of the petitioner-Company that the complaints filed by the respondents-workmen were not maintainable before the Industrial Court as they were not in employment of the petitioner-Company. The pleadings and evidence led by the rival parties do show that the petitioner-Company failed to regularly maintain waiting list of workmen employed on temporary basis, although mandated under clauses 4-B, 4-C, 4-D and 4-E of the Model Standing Orders. It has come in the evidence of the officer of the petitioner-Company that waiting list was prepared in the year 2000, in which also the names of the respondents-workmen were not included. It is found in the

evidence available on record that workmen, who were temporarily employed after the respondents-workmen herein, were later granted permanency in service, while the respondents-workmen herein were not even considered. Therefore, there appears to be violation of clauses 4-B, 4-C, 4-D and 4-E of the Model Standing Orders by the petitioner-Company, to that extent. But, the question is whether this should ipso facto lead to an order in favour of the respondents-workmen.

25) A crucial aspect of the matter has neither been adverted to nor considered by the Industrial Court in the impugned judgments and orders with regard to the nature of pleadings and evidence expected from the respondents-workmen to successfully claim that unemployment was involuntarily foisted upon them. The chart showing details of the periods of employment of the respondents-workmen would show that they were employed for specific periods and upon completion of such periods, their employment with the petitioner-Company ceased. There is nothing on record in the pleadings and the evidence on behalf of the respondents-workmen that they showed their

willingness to work with the petitioner-Company at any point of time after their last dates of employment with the petitioner-Company. In the complaints filed on behalf of the respondents-workmen, there is no whisper about such willingness and/or about any steps taken by the respondents-workmen to approach the petitioner-Company for work. In fact, it is only in the cross-examination of the respondents-workmen before the Industrial Court that they have made bald statements that they had approached the petitioner-Company for work. Interestingly, respondent No.1 in Writ Petition No. 7085 of 2019 has stated in cross-examination that he last approached the petitioner-Company for work in the year 1999, while the complaint was filed years later, in the year 2011. The said assertion is also not supported by any evidence.

26) This is the nature of evidence on behalf of the respondents-workmen with regards to the aspect of willingness on their part to work with the petitioner-Company. It was necessary for the respondents-workmen to have pleaded and led cogent evidence to show that while they were continuously willing to

work with the petitioner-Company, they were not offered work while others were granted employment by the petitioner-Company. If such pleading and evidence was on record it could certainly be concluded that unemployment was involuntarily foisted upon the respondents-workmen, thereby showing that they deserved to be treated as being in 'uninterrupted service' under clause 2(g)(viii) of the Model Standing Orders. In absence of any such pleading and evidence on record, the Industrial Court certainly erred in holding in favour of the respondents-workmen.

27) It becomes evident that the respondents-workmen seemed to have voluntarily chosen unemployment with the petitioner-Company, while choosing to work with other employers. In such a situation, it cannot be said that the respondents-workmen had been able to prove that they were in 'uninterrupted service' with the petitioner-Company. The fact that the respondents-workmen chose to raise their grievance against the petitioner-Company for the first time after 9 to 23 years of their last dates of employment with the petitioner-Company, shows that they cannot be covered under clause 2(g)(iii) of the Model

Standing Orders. The cessation of employment of the respondents-workmen on the last dates of their employment with the petitioner-Company, as demonstrated in the chart above, clearly shows that they could not be held to be in 'uninterrupted service' of the petitioner-Company for maintaining complaints before the Industrial Court.

28) In this context, the learned senior counsel appearing for the petitioner-Company is justified in relying upon judgment of the Hon'ble Supreme Court in the case of **Oshiar Prasad v. Sudamdih Coal Washery**, reported in **(2015) 4 SCC 71**. In the said judgment, the Hon'ble Supreme Court held that absorption and regularization in service can be claimed or granted only when the contract of employment subsists and it is in force *inter se* between the employee and the employer. It has been categorically held that once the employment comes to an end either by efflux of time or as per terms of the contract of employment or by its termination by the employer, then the relationship of employee and employer comes to an end and no longer subsists, except for the limited purpose of examining the legality and correctness of its

termination.

29) It was sought to be argued on behalf of the respondents-workmen that the aforesaid judgment of the Hon'ble Supreme Court would not apply to the facts of the present case because in the said case, the Hon'ble Supreme Court was considering an industrial dispute under section 10 of the Industrial Disputes Act, 1947, which necessarily referred to the concept of 'continuous service' under section 25-B of the Act of 1947, as distinguished from clause 2(g)(viii) of the Model Standing Orders with which this Court is concerned in the present cases. But, the said distinction sought to be made on behalf of the respondents-workmen is unacceptable because this Court finds that the respondents-workmen cannot be said to be in a situation of unemployment being involuntarily foisted upon them under clause 2(g)(viii) of the Model Standing Orders. Once such a finding is rendered, it cannot be held that the respondents-workmen continued in 'uninterrupted service' despite the fact that their last dates of employment were between 9 and 23 years before they chose to approach the Industrial Court in the years

2010-2011. The ratio laid down by the Hon'ble Supreme Court in the aforesaid judgment applies to the present cases also and the Industrial Court could not have entertained the prayer for permanency and regularization made on behalf of the respondents-workmen when they had ceased to be in employment of the petitioner-Company between 9 and 23 years before filing the complaints.

30) In this context, judgment of a learned Single of this Court in the case of **Kinetic Engineering Ltd., Ahmednagar v. Barku**, reported in **2019-III-LLJ-660 (Bom)** is also relevant. By referring to clause 2(g)(viii) of the Model Standing Orders, this Court in the said judgment rejected the contention raised on behalf of the workmen that few months of employment in a particular year and then another few spells of such employment after three years would have to be clubbed together to hold that the workmen had been working for five continuous years in the establishment. This Court held that if such interpretation was given to the concept of uninterrupted service, it would lead to disastrous consequences.

31) It is also relevant that the contention raised on behalf of the respondents-workmen that they had completed more than 240 days of work in a calendar year if the artificial breaks in their employment were ignored, cannot be accepted. It is of significance that such a contention is sought to be raised on behalf of the respondents-workmen while claiming permanency, by filing complaints 9 to 23 years after their last dates of employment. Having failed to show any willingness to work with the petitioner-Company for all these years, it cannot lie in the mouth of the respondents-workmen that their intermittent service with the petitioner-Company in temporary capacity all these years ago deserves to be clubbed together to hold that they had completed 240 days in a calendar year, thereby justifying their claim for permanency in service. Such a contention can certainly not be accepted.

32) In the case of **Mohd. Ali v. State of H. P.**, reported in **(2018) 15 SCC 641**, the Hon'ble Supreme Court considered a case where workmen had worked for different number of days in calendar years with the employer. After taking into consideration

the undisputed data on record and the concept of 'continuous service' as it then existed, the Hon'ble Supreme Court found that the workmen had not completed 240 days in a calendar year in the immediate preceding year of their dismissal and, therefore, the reliefs claimed by them could not be granted. Although, it is vehemently submitted on behalf of the respondents-workmen herein that the said case pertained to the provisions of the Act of 1947 and in the present case this Court is concerned with the concept of 'uninterrupted service' under clause 2(g)(viii) of the Model Standing Orders, this Court is not impressed with the distinction sought to be made. Even if clauses 4-B, 4-C, 4-D and 4-E of the Model Standing Orders are taken into consideration, it cannot be said by any stretch of interpretation that in the complaints filed by the respondents-workmen herein after 9 to 23 years of their last dates of employment with the petitioner-Company, they could successfully claim that they had completed 240 days of continuous and uninterrupted service on the basis that they were covered under clause 2(g)(viii) of the Model Standing Orders. Therefore, it becomes clear that the Industrial

Court committed an error in holding in favour of the respondents-workmen in this context.

33) On the aspect of continuous and recurring cause of action, this Court finds that the Industrial Court erred in holding that not only were the complaints filed by the respondents-workmen within limitation, but they did not suffer from delay and laches. There is no dispute about the fact that complaints could be filed under section 28 of the Act of 1971, within 90 days of occurrence of the unfair labour practices complained of. In the present case, the respondents-workmen have claimed that their complaints were within limitation because the cause of action occurred every time the petitioner-Company ignored their right and employed other workmen. This interpretation is flawed, for the reason that unfair labour practices claimed by the respondents-workmen under Items 5 and 9 of Schedule IV of the Act of 1971, would occur provided the respondents-workmen first cross the threshold of proving that they were in uninterrupted service of the petitioner-Company. The pleadings and evidence on record show that the respondents-workmen were all along aware

from the last dates of employment with the petitioner-Company that certain other workmen were being offered employment. The respondents-workmen could have shown willingness of employment with the petitioner-Company and immediately represented before the Company about the alleged bias and favouritism being shown in favour of workmen junior to them or fresh workmen from the market, to claim unfair labour practice under Item 5 to Schedule IV of the Act of 1971. Such grievance regarding unfair labour practice under Item 9 to Schedule IV of the Act of 1971, could also have been immediately raised by the respondents-workmen.

34) But, they chose not to raise such a grievance and leisurely walked into the Industrial Court after a gap of 9 to 23 years of their last dates of employment and occurrence of cause of action, by filing complaints in the years 2010-2011. In such a situation, the Industrial Court could not have held that the complaints were filed within the limitation period of 90 days of the occurrence of the unfair labour practice. Such complaints were clearly hit by delay and laches. The fact that the

respondents-workmen chose not to represent before the petitioner-Company regarding their claim and further chose to file the complaints after such a long period of time, clearly indicates lack of willingness to agitate their claim, thereby indicating that there was no live grievance or dispute sought to be agitated by them when they eventually filed their complaints before the Industrial Court.

35) In the case of **Prabhakar v. Joint Director of Sericulture Department**, reported in **(2015) 15 SCC 1**, the Hon'ble Supreme Court has dealt with this aspect of what could be said to be a live dispute and what would be the effect of delay, laches and acquiescence in the context of a grievance of a workman against his employer. After referring to the maxim '*delay defeats equities*', the Hon'ble Supreme Court has held that if the workman fails to raise a dispute even when there is no period of limitation specified and chooses to raise such a dispute belatedly, the Court would have to examine as to whether the grievance/dispute sought to be raised remained alive or it was to be treated as dead. It was held that if the grievance/dispute is found not to be alive, the Court can

refuse to entertain such a grievance/dispute. The Hon'ble Supreme Court held in paragraph 41 as follows:

“41. Thus, in those cases where period of limitation is prescribed within which the action is to be brought before the court, if the action is not brought within that prescribed period the aggrieved party loses remedy and cannot enforce his legal right after the period of limitation is over. Likewise, in other cases even where no limitation is prescribed, but for a long period the aggrieved party does not approach the machinery provided under the law for redressal of his grievance, it can be presumed that relief can be denied on the ground of unexplained delay and laches and/or on the presumption that such person has waived his right or acquiesced into the act of other. As mentioned above, these principles as part of equity are based on principles relatable to sound public policy that if a person does not exercise his right for a long time then such a right is non-existent.”

36) In the present case, there is a specific period of limitation of 90 days provided under section 28 of the Act of 1971, under which the respondents-workmen sought to raise their grievance and they miserably failed to demonstrate how their complaints could be said to be either within limitation or that they

did not suffer from delay and laches. The Industrial Court failed to appreciate this aspect of the matter, while entertaining the complaints filed by the respondents-workmen. Once a conclusion is reached that the theory of continuous and recurring cause of action raised on behalf of the respondents-workmen cannot be accepted, it becomes clear that the respondents-workmen could be treated as workmen/employees only for the purpose of challenging the termination of their services.

37) In the present case, as the chart shows, the last dates of employment of the respondents-workmen with the petitioner-Company were about 9 to 23 years before they filed the complaints before the Industrial Court. The cessation of their employment or the termination of their services could have been challenged only before the Labour Court. The respondents-workmen chose not to take any steps for long period of time with regard to their cessation of employment with the petitioner-Company upon completion of specific periods for which they were appointed. Therefore, in the years 2010-2011, the challenge to termination of their services raised by the respondents-workmen

was also hopelessly barred by limitation. Even otherwise, such a grievance could not have been raised in the complaints before the Industrial Court. Therefore, there is substance in the contention raised on behalf of the petitioner-Company that the Industrial Court did not have jurisdiction to entertain the complaints filed on behalf of the respondents-workmen. A perusal of the pleadings in the complaints would show that the respondents-workmen, in a convoluted manner, by claiming right of permanency and regularization, were in effect challenging termination of their service, which was impermissible. The theory of continuous and recurring cause of action based on clause 2(g)(viii) of the Model Standing Orders is found to be unacceptable by this Court and therefore, it is found that the Industrial Court erred in entertaining the complaints of the respondents-workmen in these cases.

38) The learned senior counsel appearing for the respondents-workmen has placed much emphasis on the aforementioned judgments of the Division Bench and the learned Single Judge of this Court in cases of workmen, who had filed

complaints in the years 2001 and 2004. It is contended that although the Hon'ble Supreme Court held in its order dated 03/07/2015 that the said judgments shall not be treated as binding precedents, they indeed were binding on the Industrial Court and that in any case, the said judgments did have persuasive value before this Court. On a pointed query put to the learned senior counsel regarding the effect of the observation in last paragraph of the order of the Hon'ble Supreme Court dated 03/07/2015, it was conceded that the questions of law had been kept open and that it was specifically directed that the judgments of the Division Bench and the learned Single Judge of this Court shall not operate as binding precedents. Thus, it is evident that this Court can proceed on the facts pertaining to the cases as projected by the rival parties in these writ petitions. The findings rendered by the Division Bench and the learned Single Judge of this Court, cannot be binding precedents as per the order dated 03/07/2015 passed by the Hon'ble Supreme Court. Therefore, the Industrial Court completely erred in copiously referring to and relying upon the findings in the aforesaid judgments to hold in

favour of the respondents-workmen herein.

39) Even otherwise, this Court is of the opinion that the aforementioned judgments of the Division Bench and the learned Single Judge of this Court were in the facts of those cases and that the facts in these writ petitions are distinguishable. A perusal of the aforementioned judgments of the Division Bench and the learned Single Judge of this Court would show that complaints were filed by the workmen therein in the years 2001 and 2004. A perusal of the facts mentioned in detail in the judgment of the learned Single Judge of this Court in writ petitions arising from complaints filed in the year 2004, would show that when the complaints were filed, the workmen were in employment of the petitioner-Company, after a gap from the earlier period of employment. In fact, the workmen therein, concerning judgment and order dated 19/09/2006 passed by the learned single Judge of this Court in the case of *Mahindra and Mahindra Limited v. Shri Manoj and another*, reported in 2007(1) ALL MR 800, would show that the workmen had been all along pursuing their claim by filing complaints in the year 2003 itself. It was when the said workmen

were again taken into employment in the year 2004 that they withdrew their earlier complaints and pursued the complaints filed in the year 2004, wherein they had specifically claimed the relief of permanency and regularization.

40) Thus, the workmen therein had shown their willingness to work with the petitioner-Company and they had indeed been taken into employment in the year 2004 again with the petitioner-Company, when they actually filed their complaints claiming permanency and regularization. It was in the context of such facts that the learned Single Judge and the Division Bench of this Court, in the earlier sets of litigation, held that when the workmen therein were willing to work with the petitioner-Company, but they were taken into employment after workers junior to them had been offered employment and granted permanency, there was a case of unfair labour practice against the petitioner-Company. It was in the context of such peculiar facts that in the said judgments, the Division Bench as well as the learned Single Judge of this Court held that relief granted by the learned Industrial Court could not be interfered with.

41) The facts in the present case are clearly distinguishable, because the respondents-workmen herein chose to approach the Industrial Court after 9 to 23 years of their last dates of employment with the petitioner-Company. They were not in employment when they filed the complaints seeking permanency and regularization, thereby showing that even if the judgments of the Division Bench and the learned Single Judge of this Court are treated to be of persuasive value, they would not apply to the facts of the present cases. The respondents-workmen herein have miserably failed to prove on the basis of pleadings and evidence that they would fall within the definition of 'uninterrupted service' under section 2(g)(viii) of the Model Standing Orders. The Industrial Court completely failed to appreciate this aspect of the matter while relying upon the aforementioned judgments of the Division Bench and the learned Single Judge of this Court and allowing the complaints of the respondents-workmen.

42) The learned senior counsels for the rival parties have placed on record written notes of arguments in support of their

respective stands. It has been highlighted in the note filed on behalf of the petitioner-Company that in one of the complaints, the case of a trainee was involved. It was emphasized that a perusal of the Model Standing Orders, particularly clause 2(F) would show that such a person is only a learner who may or may not be paid allowance during the period of his training. Reliance was placed on the judgment of the Hon'ble Supreme Court in the case of **U.P. State Electricity Board v. Shiv Mohan Singh**, reported in **(2004) 8 SCC 402**, to contend that an apprentice or trainee cannot be equated with an employee because there is no relationship of master and servant or employer and employee. It was laid down that there was no obligation on the part of the employer to provide employment to such an apprentice/trainee. The said position of law appears to be clearly in favour of the petitioner-Company. But, in any case, in view of findings rendered by this Court against the respondents-workmen with regard to the very applicability of the concept of uninterrupted service under clause 2(g)(viii) of the Model Standing Orders, it would not be necessary to deliberate any further on the said issue.

43) The learned senior counsel appearing for the petitioner-Company had referred to the judgments rendered by the learned Single Judge and Division Bench of this Court pertaining to the workmen of the petitioner-Company who had filed complaints in the years 2000 and 2004, which ultimately culminated in settlements between the parties. The said judgments have been referred to above and therefore, they do not need be separately dealt with.

44) The learned senior counsel appearing for the respondents-workmen did place on record compilation of judgments along with written notes of arguments, but specific emphasis was placed only on few judgments. It was submitted that the judgment of the Hon'ble Supreme Court in the case of **S. Shanmugavel Nadar v. State of Tamilnadu**, reported in **(2002) 8 SCC 361**, laid down that doctrine of merger did not apply when a special leave petition was dismissed on technical grounds. It was contended that if the ratio of the said judgment was appreciated, the order dated 03/07/2015 passed by the Hon'ble Supreme Court, referred to above, would not lead to a merger of the

judgments of the Division Bench and the learned Single Judge of this Court. The said contention is misplaced for the reason that the order dated 03/07/2015 passed by the Hon'ble Supreme Court, referred to above, clearly is in the context of the said judgments of the Division Bench and the learned Single Judge of this Court and it has been emphatically stated that all questions of law have been kept open, further directing that the said judgments of the Division Bench and the learned Single Judge of this Court shall not operate as binding precedents.

45) Emphasis was also placed on judgment of learned Single Judge of this Court dated 19/09/2006 in the case of *Mahindra and Mahindra v. Manoj and another* (supra). But, the same has been dealt with herein above and it has been already held that even if the same is found to be of persuasive value, the facts in that case are clearly distinguishable from those in the case of the respondents-workmen herein. The learned senior counsel for the respondents-workmen also relied upon judgment of the Hon'ble Supreme Court in the case of **State of U. P. v. Arvind Kumar Srivastav**, reported in (2015) 1 SCC 347, to contend that

the authorities were under an obligation to extend benefit to all similarly situated persons when judgments in *rem* granted relief to similarly situated employees. The said contention cannot be accepted for the reason that the judgments rendered by the Division Bench and the learned Single Judge of this Court were in specific cases wherein the workmen had approached the Industrial Court way back in the years 2001 and 2004. The facts of the present cases are clearly distinguishable as found above and therefore, it cannot be said that similar relief ought to be granted to the respondents-workmen herein.

46) In view of the above, this Court finds that the Industrial Court committed errors in accepting the contentions raised on behalf of the respondents-workmen. As a consequence, the complaints filed by the respondents-workmen were not only erroneously entertained, but substantial relief was granted to them even though the respondents-workmen chose to file complaints in the years 2010-2011 for perceived grievances that occurred way back in point of time. The entire approach of the Industrial Court was fraught with errors, leading to the impugned

judgments and orders granting the reliefs of permanency, regularization and all consequential monetary benefits to the respondents-workmen, who did not deserve the same in facts and law.

47) Consequently, the writ petitions are allowed. The impugned judgments and orders passed by the Industrial Court are quashed and set aside and the complaints filed by the respondents-workmen are dismissed. Rule is made absolute in the above terms. No order as to costs.

JUDGE