

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION NO. 24 OF 2021
IN
WRIT PETITION NO. 13399 OF 2018**

Suman Ganesh Jadhav and Others ..APPLICANTS

VERSUS

M/s Laxmi Metal Pressing Works Pvt. Ltd. ..RESPONDENT

....
Mr. A.A. More, Advocate for applicants
Mr. S.S. Vidwans, Advocate for respondent
....

**CORAM : R.G. AVACHAT, J.
DATED : 07th OCTOBER, 2021**

PER COURT :

1. Heard.
2. This application has been moved for review of the judgment and order dated 03rd February, 2021 passed by this Court in Writ Petition No. 13399 of 2018, upholding the order passed by the Industrial Court in Revision (ULP) No. 78 of 2014.
3. The applicants came with a case to have been permanent employees of the respondent - employer – M/s Laxmi Metal Pressing Works Pvt. Ltd. Since their services were terminated, they preferred Complaint

(U.L.P.) No. 68 of 2009. It is submitted that the employer had made a statement in earlier proceeding between the same parties which was pending before the Industrial Court that pending the complaint, services of these employees will not be terminated. In view thereof, it has no relevance in this subsequent proceedings.

4. Admittedly, the applicants - employees did not have any evidence except their words to show that they were appointed by the employer. It has already been observed that no muster roll or attendance register or orders of appointment were produced before the Labour Court. On producing the evidence before it, the Labour Court had allowed the complaint with direction to reinstatement. The employer preferred the revision. The revisional Court in exercise of its revisional jurisdiction set aside the order passed by the Labour Court.

5. Learned counsel for the applicants would submit that the revisional Court traveled beyond the scope of revisional jurisdiction. In support of his contentions, he relied on the following authorities.

1. Masina Hospital Vs. Hari Ganpat Kadam & Anr. 2001 (2) All MR 372

2. Agricultural Produce Market Committee Arjuni Moregaon & Anr. Vs. Ashok Danaji Hatzode, 2015 (4) Mh.L.J. 79

3. Sahebrao Khemaji Kale Vs. Paras Agro Engineering Work 2016(1)Mh LJ 70
4. Tanaji Baburao Tanugade Vs. Manager Kolhapur District Central Co-op. Bank Ltd. & Anr. 2016 (6) All MR 241
5. Bhilwara Dugdh Utpadak Sahakari S. Ltd. Vs. Vinod Kumar Sharma Dead by L.Rs. and Ors., Civil Appeal No. 2585 of 2006 Dt. 01st September, 2011 by Supreme Court

It was also submitted by learned counsel that now a trend has been set that the employers practice to show that the employee's have been appointed through a contractor. The Apex Court has deprecated such practice. He, therefore, urged for allowing the review application by setting aside the order passed by the Industrial Court.

6. It is reiterated that before the Labour Court the applicants did not lead any documentary evidence such as attendance register, orders of their appointment, etc. Their claim was based on their oral evidence alone. The revisional Court appreciated the documentary evidence indicating the contractor to have paid the employees' contribution towards Provident Fund and Employees State Insurance. According to learned counsel for the applicants, the Industrial Court should not have undertaken exercise of reappraisal of the evidence. In view of this Court, since there was evidence in the nature of mere words against the documentary evidence, the Industrial Court was very much justified in relying on the documentary

evidence to find the Labour Court's order to be perverse in the factual backdrop. This Court, therefore, upheld the order passed by the Industrial Court. As such, I find no merit in the review application. Same is, therefore, rejected.

(R.G. AVACHAT, J.)

SSD