

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

WRIT PETITION NO.11557 OF 2022

**RAJENDRA DAULAT KHAIRNAR
VERSUS
THE STATE OF MAHARASHTRA THR SECRETARY AND OTHERS**

...
Advocate for Petitioner : Smt. Bharad Pratibha J
AGP for Respondents/State: Mr. S. K. Tambe
...

**CORAM : RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 12th December, 2022

PER COURT :

1. The petitioner is about 49 years of age. He claims to have worked as a daily wagers from 1996 till 02.05.2005 with the Dhule Municipal Corporation. Since he was disengaged, he approached the Labour Court by preferring Complaint (ULP) No.34/2005 under Item-1 Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. By judgment and order dated 19.12.2008, the ULP complaint preferred by the petitioner was dismissed, concluding that the petitioner did not prove that he was working for 240 days an each calendar year, on daily wages. He also could not prove that he was in the employment of the Municipal Corporation and the Labour Court specifically concluded that this aspect was not established. As such, employer – employee

relationship was not proved before the Labour Court. The petitioner did not challenge the final judgment of the Labour Court.

2. The petitioner is before this Court in the light of a Government Resolution dated 05.02.2019, wherein, the Urban Development Department came up with a scheme to regularize such daily wagers, who are appointed in between 11.03.1993 and 27.03.2000 and are still in employment. Our attention is drawn to a communication, under the RTI, to the petitioner dated 15.12.2006 permitting him to apply for selection and appointment, whenever the Corporation resorts to a recruitment drive by publishing an advertisement. It is now almost 17 years and 7 months that the petitioner is out of employment. His complaint ULP before the Labour Court challenging his discontinuation has been dismissed.

3. The learned AGP brings to our attention that the Government Resolution dated 05.02.2019 is not to absorb those daily wagers, who are not in service of any Municipal Corporation or Municipal Council. The Government Resolution is issued to absorb such employees, who are long continued in employment on daily wages and who have been appointed in between 11.03.1993 to 27.03.2000 and are still in employment. He, therefore, submits that the said Government Resolution provides to absorb limited number of daily wagers as per their seniority, who are in employment.

4. Considering the above, we do not find that this petition could be entertained, as the petitioner is out of employment for more than 17 years. The Government Resolution dated 05.02.2019 does not cover his case. His challenge to his discontinuation has been negated by the Labour Court.

5. In view of the above, this petition is disposed off.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)