

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

1 WRIT PETITION NO. 4145 OF 2005

Chief Officer, **...PETITIONER**
Nagar Parishad Office,
Udgir, Dist. Latur

VERSUS

Balaji Satwaji Balande, **...RESPONDENTS**
Age-38 years
and others

Mr. Vivek Bhautankar, Advocate for the petitioner
Mr. B. B. Yenge, Advocate for the respondent Nos.
1,6,8,9 to 13,27,14,15,17,19,20,21,22,24,26,27,30&32

CORAM : RAVINDRA V. GHUGE, J.

DATE : 14-03-2022

P.C.

1. By this petition, the petitioner-Municipal Council, Udgir is aggrieved by the judgment and order dated 12-10-2004 delivered by the Industrial Court, Latur by which complaint (ULP) No. 04 of 2004 (Old NO. 83 of 1994) has been allowed and the petitioner is directed to comply with the compromise terms dated 25-10-1991, that took place before Labour Court, Latur in Criminal Complaint (ULP) No. 13 of 1991, and the subsequent compromise terms dated 19-07-1993, between the parties. The prayer of the complainants for reinstatement with backwages

has been dismissed.

2. I have considered the strenuous submissions of the learned Advocates for the respective sides and I have gone through the petition paper book with their assistance.

3. The compromise terms before the Labour Court dated 25-10-1991 indicate that the concerned workers/respondents herein had requested for reinstatement in service. In the General Body meeting, the Municipal Council passed a resolution to reinstate the respondents. It was also agreed that they would be granted continuity in service as per their seniority. Apparently, this compromise terms have not been acted upon by the Municipal Council. After about three years, these respondents approached the Industrial Court in complaint ULP NO.83 of 1994, which was subsequently re-registered as 04 of 2004 with the creation of the Industrial Court at Latur. They had prayed for implementation of the compromise terms.

4. By the judgment of the Industrial Court dated 12-10-2004, it was ordered as under:

"ORDER

- i. The complaint is partly allowed.

- ii. It is hereby declared that the respondent is indulged in unfair labour practices under Item 5 and 9 of Sch. IV of the MRTU and PULP Act by not acting as per compromise dated 25-10-1991, which took place before the Labour Court, Latur in Criminal Complaint (ULP) No. 13/1991 and the compromise dated 19/07/1993, which had taken place in between Marathwada Lal Bawta Kamgar Union and the respondent. Therefore, the respondent is hereby directed to cease and desist from such unfair labour practices.
- iii. The prayer of the complainants for reinstatement with back wages is hereby dismissed.
- iv. Under the circumstances of the case parties to bear their own costs.”

5. The above order has not been challenged by the workers in this court. The Municipal Council was held to have committed an unfair labour Practices under items 5 and 9 of the Scheduled-IV of the MRTU and PULP Act, 1971. However, besides the declaration that the Municipal Council has indulged into unfair labour practices, a direction that it should desist from continuing with such practice, was passed. The prayer of these workers for reinstatement with backwages has been dismissed.

6. It is in peculiar circumstances wherein, the Municipal Council entered into a compromise with the workers before the Labour Court in ULP No.37 of 1989. By the said compromise, the Municipal Council agreed to reinstate the workers. However, it did not

act on the compromise. Therefore, the workers approached the Industrial Court seeking implementation of the compromise. The Industrial Court declared ULP against the petitioner by partly allowing the complaint and refused relief to the workers.

7. I find it quite astonishing that these workers were complainants before the Labour Court and find that the complaint is partly allowed only to the extent of a declaration of ULP under Item 5 and 9 of Schedule-IV against the employer. Section 28 and Section 30 of the MRTU and PULP Act empower the court in such circumstances to issue affirmative directions and ensure that the grievance of the complainants whose complaint is allowed, is redressed. Surprisingly, the Industrial Court has refused the relief which was sought by the complainants even after declaring that the employer is guilty of unfair labour practices. Unfortunately, the complainants have not challenged this judgment and I am told that they have preferred a criminal complaint seeking an order of punishment against the Municipal Council.

8. In my view, such contradictory directions of the Industrial Court are unsustainable and matter needs to be remitted to the court for enabling the

parties to advance their oral final submissions and the Industrial Court to deliver a reasoned judgment with proper affirmative directions.

9. In view of the above, this petition is partly allowed. The impugned judgment is quashed and set aside and complaint (ULP) No.04 of 2004, is remitted to the Industrial Court, Latur with the following directions:-

a] The Litigating parties shall appear before the Industrial Court, Latur on 08-04-2022 and shall advance their oral submissions based on the pleadings of the parties and the evidence recorded.

b] Written notes of submission are permitted.

c] The parties shall not seek adjournment since the ULP complaint is 28 years old.

d] The Industrial Court shall thereafter deliver it's judgment on or before 07-05-2022.

[RAVINDRA V. GHUGE, J.]