

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7421 OF 2022

1. Gram Sevak,
Gram Panchayat Karyalaya
Manusmarwadi post Patharwadi
Tq. Renapur, Dist. Latur

2. Sarpanch,
Manusmarwadi post Patharwadi
Tq. Renapur, Dist. Latur

...Petitioners

Versus

Madhukar s/o Devrao Sirsat,
Age 45 years, Occ. Nil
Manusmarwadi post Patharwadi
Tq. Renapur, Dist. Latur

...Respondent

Mr R.B. Deshmukh, Advocate for the petitioners
Mrs Vaishali R. Kalyankar, Advocate for respondent sole

CORAM : SANDEEP V. MARNE, J.
DATE : 10th NOVEMBER, 2022

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. With the consent of parties taken up for final hearing.

2 By this present petition, the petitioner assails the Judgment and order dated 27.03.2019 passed by the Presiding Officer, Labour Court, Latur in Complaint (ULP) No.29/2016, thereby granting relief of reinstatement to the respondent with 50% back wages. As reinstatement of respondent is opposed by the petitioners, they filed revision before the Industrial Court, Latur bearing Revision (ULP) No. 75/2019. The same is

dismissed by the Judgment and order dated 28.02.2020. Same is also challenged in the present petition.

3. At the out set, it must be observed that the petitioners have been extremely casual while defending the complaint of the respondent. After receipt of notices in the complaint, the petitioners filed application before the Labour Court on 07.06.2016 but did not proceed to file reply opposing the complaint. Vide the order dated 25th January, 2017, the complaint was directed to be proceeded exparte. The complaint was ultimately allowed by Judgment and order dated 27th March, 2019 in absence of the petitioners, thereby setting aside the oral termination order of respondent dated 01.02.2016 with further direction for his reinstatement with 50% back wages from the date of termination till reinstatement. The petitioners never bothered to verify the outcome of the complaint filed by the respondent. It is only after the respondent moved an application for reinstatement along with copy of the order of the Labour Court that the petitioners got out of their deep slumber and filed Revision (ULP) No. 75/2019 challenging the order of the Labour Court. The revision was dismissed by Judgment and order dated 28.02.2020. The petitioners again procrastinated and did not file any proceedings to challenge the order of the Industrial Court for the period of more than two long years. The present petition has been filed on 19.04.2022. It is clearly barred by the principles of delay and latches. The only explanation that the learned advocate appearing for the petitioners has offered for inordinate delay in filing the present petition is Covid-19 pandemic. True it is that the pandemic situation arose from March, 2020 onwards. However, it cannot

be stated that the petitioners were prevented from filing the present petition for unduly long period of two years and that too on the pretext of Covid-19 pandemic. Therefore, ideally, the present petition ought to have been dismissed on account of the conduct shown by the petitioners. However, the fact remains that the respondent was not appointed as a regular/permanent employee of Gram Panchayat. He claims to have worked with the Gram Panchayat from 15.06.2004 to 01.02.2016. In the revision, it was the stand of the Gram Panchayat that the respondent did not complete 240 days of service in any calendar year. The petitioners have also questioned jurisdiction of the Labour Court to entertain the complaint on the ground that the petitioners are not covered by the definition of the term "industry" under the provisions of the Industrial Disputes Act. All these contentions have remained undecided on account of the fact that the respondent's complaint has been decided *ex parte*.

4. Therefore, even though the conduct of the petitioners is clearly blameworthy, I deem it appropriate to grant an opportunity to the petitioners to present their case before the Labour Court, so that there is proper adjudication of all the issues involved in the case.

5. Smt. Vaishali R. Kalyankar, learned counsel for the respondent has strongly opposed the petition on the ground that the petitioners are playing delaying tactics with a view to defeat the lawful claim of the respondent. Though she might be right in contending so, at the same time, Gram Panchayat being a public authority, it is required to be given a chance to put forth the defence that they wish to take. For the conduct of

the office bearers of Gram Panchayat, the public exchequer cannot be bled by paying back wages. It is only on account of these considerations that I have decided to grant one more opportunity to the petitioners to contest the complaint of the respondent on merits.

6. However, this indulgence extended to the petitioners cannot be without any consequences. The order directing reinstatement of the respondent was passed by the Labour Court on 27.03.2019. The petitioners have failed to implement the said order for the last more than three and half years. In these circumstances, I deem it appropriate to impose exemplary costs on the petitioners as a pre-condition for remanding the matter to the Labour Court. I accordingly, proceed to pass the following order :-

ORDER

- (i) The Judgment and order dated 27th March, 2019 passed by the Commissioner for E.C. Act and Judge, Labour Court, Latur in Complaint (ULP) No. 29/2016 as well as the Judgment and order dated 28.02.2020 passed by the Member, Industrial Court, Latur in Revision (ULP) No. 75/2019 are set aside.
- (ii) Complaint (ULP) No.29/2016 is restored on the file of the Judge, Labour Court, Latur.
- (iii) The petitioners shall have an opportunity to file their reply opposing the complaint of the respondent and also to lead evidence, if required.
- (iv) The Labour Court, Latur shall make an endeavour to expedite the hearing of the complaint and to decide the same as expeditiously as possible and preferably within a period of six (06) months from today.

- (v) The petitioner shall pay costs of Rs. 1,00,000/- (Rupees One Lakh Only) to the respondent within a period of six weeks from today.
- (vi) The payment of costs to the respondent is made pre-condition for restoration of the complaint before the Labour Court, Latur. In the event of failure on the part of the petitioners to pay costs so awarded to the respondent, the Labour Court shall forthwith proceed to dismiss the Complaint (ULP) No. 29/2016 without granting any further opportunity to the petitioners.
- (vii) With the above directions, the petition is partly allowed.
- (viii) Rule is made partly absolute in above terms.

[SANDEEP V. MARNE, J.]

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