

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

WRIT PETITION NO.1804 OF 2010

Nandlal s/o Asaram Borkar

Aged about 44 years, Occ.- Presently
unemployed, R/o Borgaon, Post Barwa,
Tahsil – Lakhandur, District Bhandara.

... **PETITIONER**

...VERSUS...

1. Forest Development Corporation of
Maharashtra, through its Managing
Director, Rawal Plaza, Nagpur.
2. The Deputy Director,
Forest Development Corporation of
Maharashtra, Near Sai Mandir, Gondia.
3. Range Forest Officer,
Morgaon Arjuni, District Gondia.
4. Hon'ble Member,
Industrial Court, Bhandara

... **RESPONDENTS**

Shri A.R. Patil, Advocate for petitioner.

Shri A.A. Madiwale, AGP for respondent no.4.

CORAM : AMIT BORKAR, J.
DATED : SEPTEMBER 15, 2022.

ORAL JUDGMENT :

1. The petitioner is challenging the orders passed by the learned Labour Court and Industrial Court dismissing the petitioner's complaint, holding that he was appointed under the EGS Scheme.
2. According to the petitioner, he was engaged as a Van Kamgar (Chowkidar) by respondent no.3 as a daily wager. According to

him, he worked in Forest Range 272/1 Morgaon-Arjuni range from July 1991 to 1997. The services of the petitioner were terminated on 15.05.1997. The petitioner, therefore, filed Complaint (ULP) No.183/1997, which was renumbered and transferred to Gondia Labour Court as ULPA Complaint No.44/1997. Along with the petition, the petitioner filed certain documents. Respondents nos.1 and 3 filed written statements and claimed that the petitioner was working under EGS Scheme and, therefore complaint is not maintainable. By order dated 21.11.2006, the Labour Court allowed the complaint directing reinstatement of the petitioner without back wages and continuity in service. The revision against the said order was allowed and directed the respondents to produce the original muster roll before the Labour Court. The complaint has been dismissed by the Labour Court and Industrial Court, holding that the complainant has failed to prove that he had completed 240 days prior to the one year of the date of termination and that the document produced by the complainant was forged. The petitioner has therefore filed the present petition.

3. During the pendency of the present petition, the petitioner filed Civil Application No.1857/2021, which was allowed by order dated 12.01.2022. The documents filed by the petitioner along

with the said application are; (1) information received under the Right to Information Act dated 30.04.2014, (2) seniority list maintained by the respondents dated 02.11.1994 and (3) other seniority lists for different years.

4. These documents' authenticity and genuineness cannot be entered into the writ petition. Therefore, it would be in the interest of justice that the Labour Court shall adjudicate upon the authenticity and genuineness of the documents. After the documents are proved before the Labour Court, the effect of the documents can be considered by the Labour Court. Since the petitioner has been granted the opportunity to produce the documents on record in support of his case, equally, respondents need to be allowed to produce documents supporting their defence.

5. I, therefore, pass the following order:

- i. The impugned judgment and orders passed by the Industrial Court, Bhandara, in Revision No.1/2009 confirming the judgment and order in Complaint (ULPA) No.44/1997 from the file of Labour Court, Gondia, are quashed and set aside.
- ii. The matter is remanded back to the Labour Court, Gondia, for disposal afresh.

iii. Both parties are at liberty to produce additional evidence supporting their case.

iv. The Labour Court, Gondia, shall decide the complaint in accordance with the law after giving an opportunity to both sides.

Rule is made absolute in the above terms. No order as to costs. Pending civil application(s), if any, stand(s) disposed of.

JUDGE

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