

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1586/2020

Manoj S/o Ravishankar Soni,
aged about 48 Yrs., Occ. Nil,
R/o C-401, Ashirwad Apartments,
Near Lamba Petrol Pump, Kamptee
Road, Indora Square, Nagpur.

... Petitioner

- Versus -

1. Assistant Labour Commissioner,
New Administrative Building No.2,
A Wing, 4th Floor, Civil Lines,
Nagpur.
2. National Council of Churches in
India, Christian Service Agency through
its Secretary, Near C.P. Club, Civil Lines,
Nagpur.

... Respondents

Mr. S.S. Mohod, Advocate for the Petitioner.
Mr. N.S. Rao, Assistant Government Pleader for Respondent
No.1.
Mr. A.B. Mirza, Advocate for respondent No2.

CORAM : SUNIL B. SHUKRE
AND ANIL L. PANSARE, JJ.
DATE : 15.11.2022

ORAL JUDGMENT (Per Sunil B. Shukre, J.)

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. On going through the impugned order, we find, as rightly submitted by learned counsel for the petitioner, the Assistant Labour Commissioner acknowledges that there is a dispute between employer and employee (terminated) but he does not exercise his discretion under Section 10 of the Industrial Disputes Act, 1947 which is a patent illegality.

3. Learned Assistant Government Pleader submits that the matter can be remanded to the Assistant Labour Commissioner i.e. respondent No.1 for fresh consideration of the whole issue.

4. In view of the above, the petition is allowed. The impugned order is hereby quashed and set aside and matter is remanded back to respondent No.1 for fresh consideration of the claim of petitioner seeking reference under Section 10 of the Industrial Disputes Act, 1947. The application of the petitioner shall be decided fresh, in accordance with law, as expeditiously as possible and preferably within one month from the date of appearance of the petitioner before respondent No.1. The petitioner shall appear before respondent No.1 on 18.11.2022 at 11 a.m.

5. Rules is made absolute in the above terms. No costs.

CIVIL APPLICATION (CAW) NO.1497/2022

6. In view of above order, this civil application does not survive and is disposed of accordingly. No costs.

(ANIL L. PANSARE, J.)

(SUNIL B. SHUKRE, J.)

Tambaskar.

Signed By: NILESH VILASRAO
TAMBASKAR

Private Secretary
Date: 16.11.2022 12:01