

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

WRIT PETITION NO. 6198 OF 2021

LILABAI ASHOK SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Tapse Patil Pradeep V.
AGP for Respondent No.1/State : Mr. V.S. Badakh
Advocate for Respondent No. 2 and 3 Mr. Malte Uday S.

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CORAM : SHAILESH P BRAHME, J.
DATE : 29th NOVEMBER 2023.

Per Court :

. Heard the learned Counsel for both sides finally.

1. This petition is directed against the judgment and order dated 29.04.2013 passed by the learned Member of the Industrial Court, Aurangabad in Complaint ULP No.16/2009, dismissing the complaint.

2. It is the case of the petitioner that she was appointed since 1998 as a Sweeper in a Rest House situated at Mill Corner, Aurangabad run by the respondents. She was continuously rendering services. She had completed work of 240 days in a year. She is deprived of the benefits of permanency hence a complaint under item no.6 and 9 of Schedule – IV of the Maharashtra Recognition of Trade Union & Prevention of Unfair Labour Practices Act, 1971 Act is filed seeking regularization and benefits of permanency.

3. The complaint is contested by the respondents on various grounds. It is stated that she was engaged as a casual labour as per the availability of the work. There is no service contract as such between the parties. Neither any procedure was followed for recruiting the petitioner. There is no evidence on record that the petitioner rendered services as claimed by her. After 09.01.2009, the petitioner was discontinued. No proceedings are filed challenging the termination.

4. The learned Counsel for the petitioner submits that the learned Member has committed perversity in recording finding on the basis of admission given by the petitioner. He would submit that from 1998 to 2009, continuously petitioner rendered the services. The learned Member has erroneously recorded findings against her. It is contended that the petitioner is entitled for the benefits of permanency which are unauthorizedly denied.

5. The learned Counsel for the respondents supports impugned judgment and order. He would submit that there are laches in preferring the petition. No tangible material is placed on record to make out a case for benefits of the permanency. The petitioner should have challenged termination. He would submit that the petition is liable to be rejected.

6. I have considered the rival submissions of the parties. It is apparent that impugned judgment and order is passed on 29.04.2013 and present petition is filed on 01.04.2021. There are laches of about

eight years and there is absolutely no explanation in the petition. The latches are inordinate.

7. The petitioner has not placed on record any evidence to show that she was engaged by the respondents after following due procedure of law. There is no prima-facie material on record to show that she was working from 1998 to 2009. The finding recorded by the learned Member of the Industrial Court are based upon material on record and plausible.

8. The admission which are referred by the learned Member are detrimental to the claim of the petitioner and rightly appreciated. I do not see any perversity or patent illegality in the impugned judgment. There is no merit in the petition. Hence it is dismissed.

[SHAILESH P. BRAHME, J.]

Najeeb.