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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8002 OF 2022

The Chief Officer, Nagarpanchayat Jafrabad

PETITIONER

VERSUS

Shkirshah Yusufshah Shah

RESPONDENT

.....

Mr. Deshbhushan P. Madkar, Advocate for the petitioner

Mr. Ishwar Wagh h/f Mr. K. N. More, Advocate for the respondent

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 23rd MARCH, 2023

ORDER :

1. By this petition, filed under Article 226 and 227 of the Constitution of India, the petitioner challenges *ex parte* judgment and order dated 17th December, 2021 passed by the Member, Industrial Tribunal, Jalna, in Complaint (ULP) No. 139 of 2019, thereby allowing the complaint and directing absorption of the respondent in service.

2. Having heard the learned advocate for the petitioner and the learned advocate for the respondent and after considering the grounds raised in the writ petition, documents filed along with it and the impugned judgment and order, it is clear that *ex parte* decision is rendered by the Industrial Tribunal, without hearing the petitioner, who failed to appear after service of

notice through RPAD. The petitioner claims that due to communication gap, service of notice was not brought to the notice of the petitioner and hence the complaint proceeded *ex parte*.

3. From the statements made in the writ petition and the grounds raised therein, it appears that the petitioner has claimed that the respondent has left service of the erstwhile Gram Panchayat with effect from 9th July, 2012. Said contention is opposed by the learned advocate for the respondent contending that in the impugned judgment and order of the learned Member, Industrial Tribunal, it is observed that the respondent has worked with the petitioner from 2004 till 2014.

4. Be that as it may, fact remains that the respondent has filed the Complaint ULP in the year 2019, claiming absorption after the Gram Panchayat is converted into Nagar Panchayat in the year 2015, which is allowed without contest. Considering these peculiar facts, it is necessary to give opportunity to the petitioner to lead evidence, in support of the said contentions.

5. Considering the peculiar facts of the present case and in keeping with the principles of natural justice, it is desirable that an opportunity of hearing needs to be given to the petitioner to

substantiate the above submissions, by leading evidence. The impugned order, therefore, cannot be sustained.

6. For the aforesaid reasons, following order

ORDER

- a. The writ petition is allowed in terms of prayer clauses "C" and "D".
- b. Impugned order dated 17th December, 2021 passed by learned Member, Industrial Tribunal, Jalna in Complaint (ULP) No. 139 of 2019 is hereby quashed and set aside.
- c. The matter is remanded back to the Industrial Tribunal, Jalna, which shall decide it on its own merits, after giving opportunity of hearing to both the parties, within six months from the date of receipt of writ of this order.
- d. The petitioner shall pay cost of Rs.10,000/- to the respondent before the Industrial Court, within four weeks from the date of receipt of this order.
- e. Parties shall appear before the Industrial Tribunal on 10th April, 2023.

[NITIN B. SURYAWANSHI]
JUDGE