

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

1 WRIT PETITION NO.10312 OF 2012

**SAMPAT TUKARAM GAIKWAD
VERSUS
THE STATE OF MAH AND ORS**

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Advocate for Petitioner : Mr. Parag Vijay Barde
AGP for Respondent – State : Mr. S.N. Morampalle
Advocate for Respondent No.4 : Mr. T.B. Bhosale

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CORAM : SHARMILA U. DESHMUKH, J.

DATE : 24-02-2023

PER COURT :

. Heard.

2. The challenge in the petition is to the order dated 03.07.2012 passed by the Industrial Court, Ahmednagar in Complaint (ULP) No.66 of 2005.

3. The complaint was filed by the petitioner under Section 28 read with Items-5, 6, 9 and 10 of the Schedule-IV of the MRTP and PULP Act, 1971. It is the case of the petitioner that the respondents in order to avoid higher educated person in engineering and technical graduates and to pay them higher salary, created posts of Civil Engineering Assistants in Class-II cadre to look after the work of day to day nature of supervising work of unskilled and skilled workers and to keep an administrative control upon the employees. Further it

is the case of the petitioner that he was initially appointed by respondent no.4 at Bhandardara with effect from 21.06.1984 on daily wages as an unskilled employee and was taken on CRT establishment with effect from 21.06.1989 as a Mazdoor. The petitioner has stated in the complaint that his educational qualification is S.S.C. and he has passed Surveyor course of one year through the respondents in March - 1999. After setting out the work which has been carried out by the petitioner it is stated that in the year - 1999 the State has created the post of Civil Engineering Assistant by creating a cadre and posts are vacant. The petitioner came with the case that many of the employees were promoted to the post of Civil Engineering Assistants those who are working in the same post as that of the petitioner, however the petitioner has been deprived of the same and as such with the prayer for promotion, the petitioner approached the Industrial Court.

4. The case of the petitioner was opposed by the respondents and by order dated 03.07.2012 the Industrial Court after considering the evidence on record has dismissed the complaint.

5. Heard the learned counsel appearing for the parties.

6. Without going into the merits of the matter, the petition can be disposed of taking into consideration findings of the Industrial Court inasmuch as the petitioner has admitted in his evidence that he was intimated about his inability to the post on 01.04.2002. The admitted position is that the petitioner approached the Industrial Court in June – 2005 and there was no explanation put forth for the delay. The complaint also came to be dismissed for the reason that the petitioner suppressed the fact that in the past prior to the filing of the complaint, he had filed two complaints and all the complaints have been dismissed.

7. Considering that this position has not been disputed and the Industrial Court has refused to grant the relief in view of the suppression of material facts, in my opinion, the writ petition is devoid of merits and is liable to be dismissed and accordingly stands dismissed.

(SHARMILA U. DESHMUKH, J.)