

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

WRIT PETITION NO.32 OF 2023

THE CHIEF EXECUTIVE OFFICER, THROUGH ITS DISTRICT HEALTH
OFFICER VIVEK BABURAO KHATGAONKAR
VERSUS
SHAMKORBAI W/O HIRAMAN GHORPADE

...

Advocate for Petitioner : Mr. Mahesh S. Taur
Advocate for Respondent : Mr. S.C. Thomre

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 08th MARCH, 2023

PER COURT :

1. By this petition, filed under Articles 226 and 227 of the Constitution of India, petitioner challenges the order dated 17/08/2022 passed by the Industrial Court, Jalna, in Complaint (ULP) No.84/2019, thereby allowing the complaint *ex parte*.
2. Heard learned advocate for petitioner and learned advocate for respondent.
3. Learned advocate for petitioner strenuously submits that petitioner though appeared in the complaint, no written say was filed by learned advocate for petitioner and the Industrial Court has allowed the complaint on the basis of evidence led by the respondent.
4. Petitioner failed to cross-examine the respondent and

therefore, her complaint was allowed. He submits that no fair and reasonable opportunity of hearing was given to the petitioner and the complaint filed by respondent has virtually gone unchallenged. Therefore, the impugned order be quashed and set aside and the matter be remanded back for fresh hearing on merits, to the Industrial Court.

5. Learned advocate for respondent, on the other hand, supports the impugned order. He submits that respondent is widow serving with the petitioner since year 1986, till date. Considering this aspect petition may not be entertained.

6. I have duly considered the grounds raised in the petition and the documents placed on record, and the impugned order and I am of the considered view that no interference is called for in the impugned order.

7. Admittedly, respondent who is widow, is serving with the petitioner since 1986 as a part time employee. However, she was not absorbed on the post of sweeper, which is a class-4 post. The junior employees working along with the respondent were absorbed in the service, however, the respondent appears to be victimized. In that view of the matter, Industrial Court was justified in allowing the complaint of the respondent. Even if opportunity

would have been given to the petitioner to contest the matter on merit, in view of these facts the Industrial Court would have rendered the same decision, which is impugned in this petition.

8. There is no illegality or perversity in the impugned order. The writ petition being devoid of merit is dismissed.

(NITIN B. SURYAWANSHI, J.)