

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

**WRIT PETITION NO.731 OF 2022**

The State Of Maharashtra  
Through Karyakari Abhiyanta Laghu  
Patbandhare Vibhag

Petitioner

Versus

Mahadev Shankar Karkar

Respondent

Mr. P.N.Kutti, AGP for the petitioner.

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**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 27<sup>th</sup> JULY, 2023**

**ORDER :**

1. By this petition filed under Article 227 of the Constitution of India, petitioner/State challenges the judgment and order passed by the Industrial Court in Complaint (ULP) No. 87/2012, thereby partly allowing the complaint filed by the respondent.

2. Heard the learned Assistant Government Pleader for the petitioner. Though, duly served, respondent has not appeared in the matter. Perused the memo of writ petition, its annexures and the impugned orders.

3. Learned Assistant Government Pleader assailed the impugned order contending that the respondent was all along working under Employment Guarantee Scheme (EGS) and therefore he was not entitled for reinstatement and continuity in service as well as back wages. He assailed the findings of the Industrial Court stating that findings are contrary to the record. According to him, Industrial Court has not properly considered the contentions of the petitioner in the proper perspective and has erred in allowing the application filed by the respondent. In support of his submission, he relied on Arvind G. Chaudhari and another vs. Dhanraj Nathu Patil and another, 2009 (1) Bom. LC 261.

4. Record shows that the respondent was initially appointed on the post of watchman on 21.06.1990 and he rendered his service till 30.09.1993. It appears that thereafter his service is orally terminated on 31.09.1993. Respondent thereafter filed Reference IDA No. 96/1996 before Labour Court, Solapur. On 10.08.1999, the reference was allowed and respondent was reinstated on the post of peon instead of watchman with back wages from the period from 29.01.1996 onwards till the date of his actual reinstatement.

5.           Thereafter, respondent filed Complaint (ULP) No. 108/2004 contending that, though pursuant to the decision in Reference IDA No. 96/1996, dated 10.08.1999, he was reinstated on 27.03.2000, however, he was not paid salary of the said period and he was again terminated by order dated 21.03.2001.

6.           By filing say petitioner opposed the complaint and questioned the jurisdiction of the Labour Court. Labour Court by judgment and order dated 27.02.2012 dismissed the complaint on the point of jurisdiction.

7.           Respondent thereafter approached Industrial Court by filing Complaint (ULP) No. 87/2012 under section 28 read with Item No. 9 and 10 of Schedule-IV of the MRTU & PULP Act for a declaration that respondent by not obeying the direction of the Labour Court in Reference IDA No. 96/1996 have indulged in unfair labour practice and sought direction that he be appointed as watchman as per the said award. Petitioner opposed the complaint by filing written statement. Industrial Court after considering the rival submissions and documents placed on record partly allowed the complaint.

8. Industrial Court while passing the award negated the argument of the petitioner that complaint is time barred. The Industrial Court was not convinced with the argument advanced by the petitioner that complaint was not tenable.

9. It appears from the record that both the parties have not led any evidence before the Industrial Court and the decision is rendered by the Industrial Court on the basis of documents placed on record. Industrial Court has recorded a finding of fact that termination of service of the respondent is illegal. Termination of service of the respondent was on the ground that he was working as labour under EGS, but in Reference IDA No. 96/1996, the Labour Court has clearly held that respondent was working as watchman and therefore it cannot be said that he was working as labour under EGS. The petitioner has also failed to prove before the Industrial Court that the respondent was working as labour under EGS.

10. In Arvind Chaudhari (supra), learned Single Judge of this Court has held that, "*Labour Court or Industrial Court has no jurisdiction to grant relief to the labours working under Employment Guarantee Scheme, as Employment Guarantee*

*Schemes are not covered by M.R.T.U. & P.U.L.P. Act."*

Such are not the facts of the present case. In the present case, respondent was working on the post of watchman and he was illegally terminated on the ground that he was working as labour under EGS. Therefore, this ruling is of no help to the petitioner.

11. Industrial Court has passed a reasoned order which is supported by the record. There is no illegality or perversity in the order impugned in the present petition. There is no jurisdictional error or error of law committed by the Industrial Court while passing the impugned judgment and order. Writ petition being devoid of merit is dismissed.

**[NITIN B. SURYAWANSHI, J.]**