



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**WRIT PETITION NO. 599 OF 2020**

(MUNICIPAL COUNCIL, DHAMANGAON (RAILWAY)..VS.. MADHUKAR WAMANRAO CHINCHE & ANR.)

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

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Shri M.G.Rathi, Advocate for Petitioner.  
Shri A.S.Dhore, Advocate for Respondent No.1  
Ms Mukta Kavimandan, A.G.P. for Respondent No.2.  
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**CORAM : ANIL S. KILOR, J.**  
**DATED : OCTOBER 11, 2023.**

1. Heard.
2. The *ex parte* judgment dated 01/04/2019 passed by the Industrial Court, Amravati in Complaint (ULP) No.120 of 2015 is under challenge in this writ petition.
3. The respondent is the complainant who filed complaint under Section 28 read with Items 5 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as "the MRTU & PULP Act") alleging that the respondents are engaged in unfair labour practice, namely denying regularization and permanency to the respondent despite he was working for more than 15 years as a Clerk in Class-III cadre.
4. The petitioner was duly served, but failed to appear and therefore, the learned Industrial Court proceeded *ex parte* on 17/06/2016 and subsequent to the same, allowed the complaint and thereby directed the petitioner to make the

complainant permanent in service as a Clerk in Class-III Cadre from 01/03/1993 and to give all the monetary benefits to him as junior employees to the complainant have been granted, by modifying the order of regularization of the complainant dated 27-28/08/2003.

5. In the above referred backdrop, the learned counsel for the petitioner submits that due to oversight the matter was remained unnoticed and that resulted in not attending the matter and the consequence of the same was that the Court proceeded *ex parte*. It is submitted that certain material facts were never brought to the notice of the learned Industrial Court namely the earlier complaint for regularization thereafter filing of the writ petition and the fact that in pursuance to the order of the High Court the orders issued by the State Government to regularize the employees. It is therefore, submitted that if the petitioner gets an opportunity these facts can be brought to the notice of the Industrial Court.

6. Shri Dhore, learned counsel for the respondent No.1 opposes the present writ petition and supports the impugned order.

7. The learned A.G.P. for the respondent No.2 is supporting the petitioner and prays for setting aside the impugned order.

8. From the record, it is apparent that the petitioner as well as respondent No.2 failed to appear before the Industrial

Court though they were served. After going through the record I do not find favour with the submission made by the learned counsel for the petitioner that the relevant record was not perused by the Industrial Court.

9. It appears that the Industrial Court has considered the judgment and order dated 13/02/2002 passed by the Industrial Court in the earlier compliant filed by the respondent No.1 and also the order passed in the Writ Petition.

10. However, from the impugned order it is evident that the proper reasons are not recorded by the Industrial Court and in a cryptic manner the complaint came to be allowed.

11. In the circumstances, I am of the opinion that the matter needs to be remanded back to the Industrial Court to decide the same afresh after granting opportunity to the parties.

12. Accordingly, I pass the following order:

- i) The Writ Petition is partly allowed subject to payment of costs of rupees Thirty Thousand to be paid to the respondent No.1 within four weeks. The acknowledgment in receipt of the said amount shall be filed in this Court, within five weeks from today.

- ii) The impugned *ex parte* judgment and order dated 01/04/2019 passed by Member, Industrial Court, Amravati in Complaint (ULP) No. 120 of 2015 is hereby quashed and set aside.
- iii) The Complaint (ULP) No. 120 of 2015 is restored to its file.
- iv) The matter is remanded back to the Industrial Court, Amravati to decide the same afresh, on its own merits, after giving sufficient opportunity to the parties.
- v) The parties shall appear before the Industrial Court, Amravati on 26/10/2023 at 11:00 a.m.
- vi) The Industrial Court shall decide the matter within six months from the date of appearance of the parties.
- vii) The petitioner is permitted to withdraw the costs of Rupees Fifty Thousand deposited in this Court.

The Writ Petition is **disposed of** accordingly. No order as to costs.

**JUDGE**