

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

Writ Petition No.2409 of 2018

Shaikh Mohammed Haji Ab. Latif

Vs

The Deputy Conservator Of Forest, Wild Life Division, Akola And Another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P.S. Girdekar, Advocate for the Petitioner/s

Shri D.P. Thakare, Addl.G.P. for the Respondents/State

CORAM : ANIL S. KILOR, J.

DATED : 19.06.2023

1. Heard.

2. The learned Labour Court, Akola vide its judgment and order dated 03.02.2004 allowed the Complaint ULP No.170 of 1997 preferred by the petitioner, challenging his termination vide order dated 16.05.1997, which was the subject matter in the Revision ULP No.26 of 2004 before the Industrial Court. The said revision came to be allowed by judgment and order dated 02.04.2009 and thereby, the judgment and order of the learned Labour Court was set aside, against which the Review Application ULP No.11 of 2009 was filed by the petitioner, the same was rejected by the industrial Court, it is under challenged in the present writ petition.

3. The learned Industrial Court vide its judgment and order dated 02.04.2009 has reversed the judgment and order of the learned Labour Court dated 03.02.2004 on the ground that, the

Forest Department is not an industry. The said point was never raised by the respondents before the learned Labour Court and even it was not raised in the revision, however, it was argued first time before the Industrial Court when the matter was taken for hearing.

4. The Co-ordinate Bench of this Court in *Writ Petition No.1278 of 2009 (Conservator of Forest, North Division Forest, Chandrapur and others Vs. Shri Umeshwar Keshao Katwate)*, has held that the Forest Department is an “Industry”. The said judgment is based on a judgment of the Hon’ble Supreme Court of India in the case of *Bangalore Water Supply & Sewerage Board Vs. A. Rajappa* reported in (1978) 2 SCC 213.

5. Nothing contrary to the same has been pointed out by the Additional Government Pleader to show that the Forest Department is not an “Industry”.

6. Admittedly, the above referred judgment of the Co-ordinate Bench of this Court in Writ Petition No.1278 of 2009 dated 08.09.2009 is subsequent to the judgment passed by the learned Industrial Court in this matter. In the circumstances, I am of the opinion that the issue needs to be considered afresh by the learned Industrial Court.

7. Accordingly, I am of the opinion that the matter needs to be remanded back to the learned Industrial Court, Akola to decide the same afresh. Accordingly, I pass the following order:

- (i) The Writ Petition is partly **allowed**.

(ii) The judgment and order dated 24.07.2017 passed by the learned Industrial Court, Akola in Review Application (ULP) No.11 of 2009, is hereby quashed and set aside.

(iii) The judgment and order dated 02.04.2009 in Revision ULP No.26 of 2004, is hereby quashed and set aside.

(iv) The Revision ULP No.26 of 2004 is remanded back to the learned Industrial Court, Akola for deciding the same afresh, after taking into consideration the above referred judgment of the Coordinate Bench of this Court in ***Writ Petition No.1278 of 2009*** dated 18.09.2009 and after hearing both the parties.

[ANIL S. KILOR, J.]