



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3881 OF 2023

PETITIONER

Municipal Council, Daryapur,
Through its Chief Officer. (Original
Respondent)

..VERSUS..

RESPONDENT

: Pravin S/o Gangaramji Chimurkar,
aged about 46 years, Occupation –
Service, resident of Siddhartha Nagar,
Babhali, Daryapur, Dist. Amravati.
(Original Complainant)

Mr M. I. Dhatriak, Advocate for Petitioner.
Mr P. S. Raut, Advocate for Respondent-Sole (Caveator).

CORAM : AVINASH G. GHAROTE, J.

DATE : 7th DECEMBER, 2023.

ORAL JUDGMENT

. **Rule.** Rule made returnable forthwith. Heard finally
by consent of Mr Dhatriak, learned counsel appearing for
petitioner and learned counsel Mr Raut appearing for
respondent – sole.

2. The petition questions the order dated 09.11.2022
passed by the learned Industrial Court, Amravati, by which the
application under Exhibit - 8 is allowed and the petitioner is

directed to release the salary of the respondent/complainant for the post of 'Fireman' as per the pay scale applicable to that post since November - 2021 and to continue to pay the same till the disposal of the complaint.

3. Mr Dhatrak, learned counsel for petitioner taking exception to the said order contends that it directs the payment of the salary on a presumption that the training qualifications as required for the said post have been satisfied. He invites my attention to Schedule-B of the Model Standing Order dated 25.04.2005 (Page 101) which demonstrates that for the post of Leading Fireman, the training from the State Fire Training Institute, Mumbai is a necessity.

4. Mr Raut, learned counsel for respondent does not dispute that the Model Standing Order is applicable to the respondent and in terms thereof the training as indicated therein is compulsory for the respondent to claim entitlement for the wages of Leading Fireman. It is, however, his contention that till such time a training was to be completed, *vide*

appointment order dated 30.05.2006, the respondent was entitled to wages of a Peon in the pay scale of Rs.2550 - 3200, which according to him has not been paid. Averment in that regard finds place in Para 4 (Page 21) of the complaint.

5. Mr Dhatrak, learned counsel for petitioner does not deny the entitlement of the respondent to the wages of a Peon in the above pay scale. The impugned order, however, makes the wages of the Fireman applicable to the respondent.

6. Considering the above position which is an admitted one and the fact that the respondent has not obtained the requisite training from the Institution which was specified by the Model Standing Order (Page 101), the wages of the post of Fireman cannot be granted to the respondent till such time the training is completed.

7. However, the respondent cannot be denied the wages of the post of Peon in the pay scale of Rs.2550 – 3200, in terms of the appointment order dated 30.05.2006 and Resolution

No.3 as passed by the Standing Committee of the Municipal Council, Daryapur, on 27.04.2006 (Page 31), in light of which, the impugned order is modified as under :

i) The petitioner – Municipal Council, Daryapur, shall pay to the respondent salary for the Post of Peon in the pay scale of Rs.2550 - 3200 from his date of appointment till such time the respondent acquires the requisite qualification as per the Model Standing Order and in case, the requisite qualification is acquired by the respondent, the salary payable to a Leading Fireman shall be paid to him, from the date of acquiring such qualification.

8. The petition is, therefore, disposed of in above terms.
Rule accordingly. No order as to costs.

JUDGE