

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

WRIT PETITION NO.2732 OF 2018

The Chief Executive Officer, Zilla Parishad, Buldhana and others **.Vs.** Vasanta
Rajaram Bavne

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

Court's or Judge's Order

Shri Vaishali Khadekar, Advocate for the petitioners.
Mrs. R.S. Sirpurkar, Advocate for the respondent.

CORAM : ANIL S. KILOR, J.

DATED : 20/06/2023

1. Heard.

2. In the present writ petition, the judgment and order dated 02.01.2018 passed by the Member, Industrial Court, Akola in Complaint (ULP) No.52 of 2006, partly allowing the complaint and thereby directing the petitioner to regularize the services of the complainant either as “Chowkidar” or as “Attendant Class IV Grade I” from the date of filing of complaint i.e. 18.07.2006 with 50% of difference of wages of regular employees, is under challenge.

3. The learned counsel for the petitioners – department has pointed out that the various Government Resolutions as regards the absorption of the Class IV employees and the condition for such absorption. It is submitted that since there is a condition of clearing the

written examination with 75% marks and interview or 25% marks, with a minimum marks was not fulfill by the respondent and therefore, the respondent is not entitled for absorption.

4. On the other hand, it is pointed out by the learned counsel for the respondent that, it was never the case of the respondent for absorption but it was for regularization as the respondent is working under the petitioners with effect from 11.11.1979 as daily rated labour and he was in service continuously which shows that the work was available with the petitioners – department. Accordingly, the learned counsel for the respondent submits that, the Industrial Court has rightly allowed the complaint and directed the petitioners to regularize the service of the complainant as “Chowkidar” or as “Attendant Class IV Grade I” along with the 50% of difference of wages from the date of filing of complaint i.e. 18.07.2006.

5. In view of rival contentions of the parties, I have perused the record and the impugned judgment and order.

6. On perusal of the complaint filed by the respondent, it is evident that the respondent has sought regularization on the ground that, he was in continuous service with the petitioners with effect from 11.11.1979. The

said fact has been denied by the petitioners. However, the learned Industrial Court has observed in Paragraph No.21 of the impugned judgment and order that the complainant was in service since the year 1988. It is further observed that, because the complaint was filed on 18.07.2006, the relief of regularization since 1988, was denied but granted the same from the date of filing of the complaint. The Court has also observed that from the Exh.34, it is evident that the complainant i.e. the respondent worked as part-time employees on contingency fund and therefore, he is entitled to 50% of difference of wages of regular employees.

7. The learned Industrial Court has further observed that, the petitioners have absorbed many of the employees from the category of the respondent on the post of Attendant of Class IV Grade I and accordingly, the directions were issued to regularize the service of the respondent either on the post of Chowkidar which is not found to be not available in the school where the respondent is presently discharging his duties, or on the post of Attendant Class IV Grade I.

8. The learned Industrial Court has further observed that the qualification required for the post of Attendant is 4th Standard. Whereas, the respondent has studied upto 7th Standard. The Court has further considered the Appendix XII under Rule 5 more particularly, the

proviso thereby the preference is to be given to the person who has worked under the Control of the Zilla Parishad on full time or part-time on contingency paid by establishment, for a continuous period not less than three years.

9. Thus, considering the reasons recorded by the Industrial Court while allowing the complaint and having gone through the reply filed by the petitioners wherein, the whole case of the petitioners is based on the criteria of absorption while opposing relief to the respondent, I do not find any error committed by the learned Industrial Court in allowing the complaint. Accordingly, I find no merit in the present writ petition.

Accordingly, the writ petition is **dismissed**.

JUDGE