



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

Writ Petition No.1776 of 2022

**THE DIVISIONAL CONTROLLER, MSRTC, NAGPUR DIVISION, NAGPUR
VS
BALA S/O BUDHAJI TARALE**

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

Court's or Judge's Order

Shri V.H. Kedar, Advocate for the Petitioner/s
Shri S.A. Nerkar, Advocate for the respondent-sole

**CORAM : ANIL S. KILOR, J.
DATED : 30.08.2023**

1. Heard.
2. The present matter pertains to grant of time scale on completion of 180 days. According to the respondent/complainant, he completed 180 days on 24.07.1969 and therefore, he is entitled to receive benefits of time scale pay w.e.f. 24.07.1969.
3. It is the case of the petitioner/corporation that the respondent completed 180 days of continuous service on 01.01.1997. Accordingly, the benefits have been given to the respondent from that date.
4. Admittedly, none of the parties adduced any evidence. The respondent did not enter into the witness box, leading any evidence to point out that, he completed 180 days of continuous service on 24.07.1969 and not on 01.01.1997 as claimed by the corporation.

5. The learned Industrial Court in a cryptic manner, without discussing any evidence recorded the findings in favour of the respondent. The impugned judgment and order, more particularly paragraph 12 reads thus:

“12. Conspectus of the aforesaid discussion is that unfair labour practice has been committed by the respondent under Item-9 of Schedule IV of the MRTU & PULP Act by not implementing Clause 49 of 1956 Settlement when it was available in the year 1969 i.e. w.e.f. 24.07.1969. Thus, the complainant is entitled to the benefits even after the period of 10 years because it was denied to him by not implementing the Settlement. The complainant is required to bring on time scale of pay w.e.f.24.07.1969. Hence, issues no.1 and 2 are answered in the affirmative and following order is passed”

6. From the above referred paragraph, it is evident that there is no discussion about any evidence. There is nothing from which it can be gathered that the Industrial Court has considered any material to reach to a definite conclusion that the respondent completed 180 days of continuous service on 24.07.1969.

7. Thus, in absence of any evidence or discussion by the Industrial Court to arrive at such conclusion, I am of the opinion that such findings can be termed as perverse and without evidence.

8. In the circumstances, I am of the opinion that the matter needs to be remanded back to the Industrial Court to decide the complaint afresh, after hearing both the parties. Accordingly, I pass the following order:

(i) The writ petition is partly **allowed**.

(ii) The judgment and order dated 01.11.2018 passed by the Member Industrial Court-2, Nagpur in Complaint (ULP) No.21 of 2011, is hereby quashed and set aside.

(iii) The matter is remanded back to the learned Member Industrial Court-2, Nagpur for the deciding the same afresh, after hearing both the parties.

[ANIL S. KILOR, J.]