



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

Writ Petition No.3506 of 2018

**ZILLA PARISHAD, WARDHA THROUGH ITS CHIEF EXECUTIVE OFFICER
VS
SHRI VIJAY S/O GULABRAO KUBADE**

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

Court's or Judge's Order

Ms S.S. Jachak, Advocate for the Petitioner/s
Mr Rohan Dhawad, Advocate for the respondent-sole

**CORAM : ANIL S. KILOR, J.
DATED : 16.10.2023**

1. Heard.
2. The judgment and order passed by the Industrial Court in Complaint ULP No.215 of 2010, allowing the complaint and thereby, setting aside the order dated 02.12.2009, declaring the respondent as surplus and absorbing him in Primary Health Centre, Dahegaon by transferring from Health Department, Zilla Parishad, Wardha, is under challenge in this writ petition.
3. In this matter, the learned Industrial Court has found that the declaration of the petitioner as surplus, is illegal for the reason that despite the fact that the respondent who was senior and placed at Serial No. 3 in the Seniority List, was absorbed at the Primary Health Centre, Dahegaon and the junior-most Drivers were retained.
4. It has come on record that there was total five posts of Drivers in Health Department, Zilla Parishad, Wardha and two posts of Drivers were abolished. Despite the same, without

issuing the order of absorption in respect of the Drivers who were juniors to the respondent, the respondent came to be shown as surplus and shown to be absorbed.

5. In the circumstances, I do not find any error committed by the learned Industrial Court in setting aside the order of absorption/transfer dated 02.12.2009.

6. Once the absorption is held to be illegal, natural consequence would be the payment of salary for the period of 01.01.2010 to 01.03.2010 and 01.09.2010 to 30.09.2010. The learned Industrial Court, Nagpur has recorded the reasons about entitlement of salary of the respondent for the said period.

7. After going through the reasons recorded by the learned Industrial Court, Nagpur I do not find any perversity or illegality committed by the Industrial Court. In that view of matter, the writ petition is **dismissed**.

[ANIL S. KILOR, J.]