

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

Writ Petition No. 3471 of 2020

[Bhujangrao Somaji Dipke ..vs.. District Maleriya Officer, Akola and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. S. Deshpande, Advocate for the petitioner
Mr. N. R. Patil, AGP for respondent nos. 1 to 3
Mr. R. M. Sharma, Advocate for respondent nos. 4 and 5

CORAM : ANIL S. KILOR, J.

DATED : 9-8-2023

The only question raised in the present writ petition is in respect of grant of retrospective effect to the absorption of the petitioner on the post of M.P.W. in pursuance to the judgment and order dated 17-6-2019 passed by the learned Industrial Court, Akola.

2. It is apparent from the face of the impugned order that the complaint preferred by the petitioner for absorption was allowed by the learned Industrial Court by recording the reasons and thereby directing the respondents to absorb the petitioner on the post of M.P.W. within period of 30 days from the date of receipt of the order.

3. However, the learned Industrial Court has held that the prayer of the complainant for absorption of his service on the post of M.P.W. with retrospective effect is rejected.

4. While rejecting the said prayer, learned Industrial Court has recorded reasons as under :-

“26. The complainant appears to be out of employment, and as such by principle of “No

Work No Pay” the Complainant No. 1 cannot be granted, the benefits of absorption from retrospective effect. However, since the Complainant have made out a case that the Respondents have illegally not considered the candidature of the Complainant, the Complainant is entitled for absorption to the post of M.P.W.”

5. Thus from the above referred observations, it is evident that the learned Industrial Court has not recorded sufficient reasons for denying absorption to the petitioner with retrospective effect.

6. As far as the reason of retrenchment is given, it is pointed out that said retrenchment was challenged and because of interim orders, the petitioner was continued in service. It appears that said fact has not been considered by the Industrial Court. In the circumstances, in my considered view, the matter needs to be remanded back to the Industrial Court for a limited purpose to decide the issue in respect of granting absorption from retrospective effect. Accordingly, I pass the following order.

- (i) The impugned judgment and order dated 17-6-2019 passed by the Industrial Court, Akola in Complaint ULP No. 173/2002 is quashed and set aside to the extent of clause (vi) of the impugned order and the matter is remanded back to the learned Industrial Court to decide the prayer of the petitioner as regards the grant of absorption with retrospective effect.

- (ii) Since the matter is old and the petitioner has got superannuated on 30-6-2021, learned Industrial Court has directed to decide the said issue within six months from the date of submission of filing of certified copy.

[ANIL S. KILOR, J.]

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