

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

WRIT PETITION NO.5266 OF 2022

(ZILLA PARISHAD BHANDARA & OTH...VS.. SMT. SUSHILA DEORAM MESHRAM & OTH.)

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

Court's or Judge's orders

Shri Abhay Sambre, Advocate a/w Shri R.S.Khobragade, Adv. for Petitioner.
Shri V.V.Dhande, Advocate for Respondents.

CORAM : ANIL S. KILOR, J.
DATED : JANUARY 23, 2023.

1. Heard.
2. In this writ petition following three judgments are under challenge :

Sr. No.	Particulars	Case No.	Date
1	Judgment of Labour Court, Bhandara granting reinstatement with back wages to the respondent	Complaint (ULP) No.18/ 2006	01/09/2012
2	Judgment and order passed by Industrial Court partly allowing revision and setting aside order dated 01/09/2012 granting back wages by the Labour Court and maintaining order of reinstatement with continuity.	Revision (ULP) No.76/2012	25/06/2013
3	Judgment and order passed by Industrial Court, Bhandara partly allowing the complaint of respondent directing to pay minimum wages to the respondent w.e.f. 03/03/2015.	Complaint (ULP) No.63/2015	07/01/2019

3. The only argument made by the petitioner in this case is that the respondent is not an employee of the petitioner and therefore, the question of payment of wages as per the Minimum Wages Act does not arise.

4. On perusal of the record, it is evident that in Complaint (ULP) No.18 of 2006 filed by the respondent challenging her termination, the Labour Court vide judgment dated 01/09/2012 has held that the respondent is 'Workman' and the petitioners are the 'Industry', within the meaning of Section 2 of the Industrial Disputes Act, 1947.

5. The Industrial Court in revision against the above referred judgment and order dated 01/09/2012, vide judgment and order dated 25/06/2013 has upheld the said finding that the respondent is a workman and accordingly maintained the order of the Labour Court to reinstate her with continuity of service.

6. The above referred both the judgments and orders were not challenged in any proceedings as such the said orders attained finality.

7. The respondent, on the basis of the judgment and order dated 25/06/2013, which had attained finality long back, filed another Complaint No.63 of 2015 for payment of minimum wages to the complainant w.e.f. 03/03/2015, which came to be partly allowed by the judgment and order dated 7th January 2019.

8. As regards delay in challenging the judgments and orders dated 01/09/2012 and 25/06/2013, in paragraph No.33 of this petition it is mentioned thus:

“33. That, the Petitioners have sent the records of Complaint (ULP) No. 63/2015 and judgment dated 09.01.2019 for challenging before this Hon’ble court to the present counsel, who after perusal of records, gave an opinion that, unless the earlier judgments 25.06.2013 and 01.09.2012 are challenged there is no merit in challenging the present judgment dated 07.01.2019 passed in Complaint (ULP) No. 63/2015. That, because the earlier proceedings are very old of year 2006 and 2012 it took time to collect all the records. That, because of the pandemic COVID-19 and time for collecting records and after receiving the possible minimum required records/documents, the present petition is filed.”

9. Thus, in absence of any satisfactory explanation to raise a challenge to the judgment and order dated 25/06/2013 passed by the Industrial Court, after 9 years, I do not find any reason to interfere with the said judgment and order in this writ petition as the rights of the respondent has already crystallized in view of the said judgment.

10. As the learned Labour Court as well as learned Industrial Court have concurrently held that the respondent is workman and as I am not inclined to entertain any challenge to the said finding at a belated

stage i.e. after more than 9 years, in absence of any explanation as regards such an inordinate delay, I do not find any error committed by the Industrial Court in directing the petitioners to pay minimum wages to the respondent No.1. Accordingly, I pass the following order:

The writ petition is **dismissed**. No order as to costs.

JUDGE

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