



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

Writ Petition No.6098 of 2019

Zilla Parishad, Through Executive Engineer, Ground Water Survey Department,
Akola and Another

Vs

Vitthal Shivram Ugale

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

Court's or Judge's Order

Shri Amol S. Deshpande, Advocate for the Petitioner/s

CORAM : ANIL S. KILOR, J.

DATED : 22.08.2023

1. Heard.
2. The respondent raised a grievance as regards his termination in a reference before Labour Court, Akola which was answered in partly affirmative by the learned Labour Court in favour of the respondent and thereby, the petitioners were directed to pay the compensation of Rupees One Lakh to the respondent, vide Award dated 09.05.2019, the same is under challenge.
3. The Award is challenged on the ground that, there is no relationship of employer-employee between the petitioners and the present respondent and further the onus to prove that the respondent completed 240 days in the preceding year was on the respondent, which he failed to prove the same. It is therefore, submitted that the impugned Award passed by the learned Labour Court is illegal and bad in law.
4. None for the respondent, though served.

5. As far as the first submission of the learned counsel for the petitioners is concerned, there is no relationship of employer-employee between the petitioners and the respondent, the petitioners have not made any such specific pleadings in their reply. The reply only says that no appointment order was issued to the respondent/complainant and therefore, there is no question of issuing one month notice before termination. Even the said point was not argued and as such it was not dealt with by the learned Labour Court.

6. In the circumstances, in absence of any evidence or any pleadings to the effect that, there is no relationship of employer-employee between the petitioners and the respondent, I do not find any merit in the first submission of the learned counsel for the petitioners and accordingly, it is rejected.

7. As far as the burden on the complainant to prove and establish that he had worked for 240 days in the preceding year is concerned, the complainant has made pleadings in this regard and also led oral evidence to that effect.

8. Moreover, the learned Labour Court directed the petitioners to produce the Muster Roll, Seniority List, Payment Bill and Cash Book for the period of 1984 to 1998 in view of the order below Exh.13, however, the petitioners failed to produce the same.

9. In the cross-examination of the witness of the petitioners, he has admitted the fact that, no such record was produced and

further he states that he cannot assign any reason for not producing such record.

10. The learned Labour Court, therefore, rightly drawn adverse inference and held that, the respondent completed 240 days in the preceding years.

11. In the above referred backdrop, it cannot be said that the complainant has not discharged his burden of proving the fact that he had worked for 240 days in the preceding year. Hence, both the grounds argued by the learned counsel for the petitioners, are without merit and need to be rejected.

12. In the circumstances, as I do not find any merit in the present petition, it is **dismissed**.

[ANIL S. KILOR, J.]