



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

921 WRIT PETITION NO. 10114 OF 2023

Chief Officer Nagar Parishad Tuljapur

...Petitioner

VERSUS

The State of Maharashtra & another

....Respondents

.....

Mr. A. T. Jagtap, Advocate for the Petitioner

Ms. P. J. Bharad, AGP for the State.

Mr. D. S. Bagul, Advocate for Respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 20th JULY, 2024.

PER COURT :

1. Petitioner/original Respondent in application IDA No. 110/2019 has preferred this Petition being aggrieved by order dated 04.11.2022 passed below Exhibit C-23 whereby the request made by the Labour Court for deciding the issue of maintainability of the application as preliminary issue is not considered.

2. The background of filing of application (IDA)No. 110/2019 is that the applicant had filed complaint (ULP) No. 74/2011 before the Labour Court seeking permanency. The said complaint was allowed by passing order dated 28.03.2014 whereby

the Respondent/Petitioner herein was directed to send complete proposal in all respect to the Government within two months to make the complainant permanent employee and it is for the Government to consider the said proposal for the Respondent in accordance with law. Undisputedly, this order is upheld by this Court. There is no further challenge to this order and as such it has attained finality. Petitioner, being aggrieved by non-payment of wages/arrears of wages as at par with a permanent workman has filed this application for recovery of sum of Rs. 31,27,675/-.

3. An application is moved by the Petitioner before the Labour Court for framing preliminary issue of maintainability of application under Section 33(C)(2) of the Act. This application is not rejected outrightly however, it is observed that the issue of maintainability/jurisdiction is framed and all issues to be decided simultaneously.

4. Learned counsel for Petitioner has placed reliance on judgment of Kerala High Court in case of S. Dhanalakshmi vs. Sahal V. J., **LAWS(KER) 2022-6-349**, wherein it is held that the issue of

jurisdiction needs to be framed as a preliminary issue before going into the merits of the case.

5. Learned counsel for Respondents supported the impugned order by contending that it is a settled position of law by judgment of Hon'ble Supreme Court in case of D. P. Maheshwari vs. Delhi Administration and others, **(1983) 4 Supreme Court Cases 293** that it is in the interest of parties that instead of deciding the issue of jurisdiction as preliminary issue all the issues need to be decided together.

6. There cannot be any dispute with regard to the fact that an application under Section 33(C)(2) of the Industrial Dispute Act can be entertained only by Labour Court. Further, there is no challenge to the territorial jurisdiction of the said Court. The only challenge is with regard to the scope of application viz a viz Section 33(C)(2). As rightly observed by the learned Labour Court, the said issue can be decided along with other issues. By following the judgment of Hon'ble Supreme Court in case of D.P. Maheshwari (supra) it is a fit case wherein all issues are required to be decided simultaneously. No prejudice much less irreparable loss will be

caused to the Petitioner if the issue of jurisdiction is not decided as a preliminary issue. This Court, therefore, finds no reason or justification for causing interference in the impugned order in exercise of writ jurisdiction.

7. In view of above discussion, Petition stands dismissed.

(R. M. JOSHI)
Judge

dyb