

Nikita

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.14490 OF 2022

Suhasrao Anandrao Patil

... Petitioner

V/s.

Divisional Commissioner, Officer of the
Divisional Commissioner, Pune and Ors.

... Respondents

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KAILAS
DARADE
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Mr. Kuldeep U. Nikam for the Petitioner.

Mr. P. G. Sawant, AGP, a/w Kedar Dighe for the
state-Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 8, 2024

P.C.:

1. The petitioner is challenging the judgment and order passed by Industrial Court in complaint ULP No.464 of 2015 dismissing the complaint alleging unfair labour practices under items 5 and 9 and 10, Schedule IV of The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Laws Practices Act, 1971 and declaration of modifying his seniority list. The petitioner was appointed as a Supervisor on 9th December 1994. On 14th October 2015 respondent Nos. 1 and 2 ignoring objection of petitioner, published a seniority list indicating employees appointed after petitioner to be senior. The petitioner, therefore, filed the complaint.

2. The respondents contested complaint by filing the written statement. In written statement, the respondents raised an issue that considering nature of work performed by the petitioner, he is not a 'workman'.
3. The Industrial Court framed necessary issues. The Industrial Court accepted petitioner's case of unfair labour practice committed by Respondent Nos. 1 and 2 in relation to item Nos. 5, 9 and 10 and Scheduled IV of the MRTU & PULP Act, 1971.
4. However, dismissed the complaint on the ground that the petitioner cannot be termed as 'workman'.
5. On perusal of the judgment, it appears that the Industrial Court has taken into consideration cross-examination of petitioner, wherein he admitted that employees working under petitioner's control were following his directions and were found working according to his directions. He also admitted that he used to assigned work to sub-ordinates working under his control.
6. Learned counsel for the petitioner submitted that the Industrial Court took into consideration part of the cross-examination. The explanation furnished to the admission in the later part of the cross-examination has not been considered. He invited my attention to the cross-examination wherein, the petitioner stated that in case of mistake committed by his sub-ordinates, he used to report his immediate Supervisor. According to petitioner, therefore, the said statement affords explanation to the admission relied by the Industrial Court.
7. Having considered the cross-examination for its entirety, in

my opinion, there is no legal infirmity in the exercise of power by the Industrial Court. The admission on page No.53 of the petition, referred by the Industrial Court is clear, unequivocal, and unambiguous. The tenor of cross-examination is sufficient to draw an inference that the nature of work performed by the petitioner, was supervisory in nature. However, in view of the finding recorded by the Industrial Court about unfair labour practice committed by the Respondent Nos. 1 and 2, under items 5, 9 and 10 of Schedule IV of MRTU & PULP Act, 1971, it will be open for the petitioner to raise the grievance of illegal seniority list before the appropriate forum as is permissible in law.

8. With this clarification, the writ petition stands dismissed. No costs.

(AMIT BORKAR, J.)