

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

**WRIT PETITION NO. 4362 OF 2005
WITH
CIVIL APPLICATION NO. 701 OF 2006
IN
WRIT PETITION NO. 4362 OF 2005**

Kumar Kondiba Awale Deceased through
legal heirs

1) Sachin Kumar Awale and Ors.

.. Petitioners

Versus

Ganpati Maharaj Panchayat Sansthan,
Sangli and Anr.

.. Respondents

...

Mr. J. P. Kharge, for the Applicants.

Ms. Sonali R. Chavan i/b Dr. Uday P. Warunjikar, for the Respondents.

...

CORAM : SANDEEP V. MARNE J.

DATE: 4 JULY 2024.

P.C. :-

1) The Petitioner has challenged the judgment and order dated 11 October 2004, passed by the Industrial Court, Sangli dismissing the Revision Petition, and confirming the judgment and order dated 2 September 2002 passed by the Labour Court, Sangli in Complaint (ULP) No. 150 of 1993.

2) The complaint was filed by the Petitioner alleging unfair labour practices leading to termination of the services on 1 May 1993. Petitioner claimed that he worked with the Respondent as a Driver since 1983.

3) The Labour Court conducted factual inquiry by assessing the evidence on record and held that the claim of the Petitioner about working as a driver with the Respondent since 1993 could not be proved. The said finding of fact recorded by the Labour Court came to be tested in Revisionary Jurisdiction under Section 44 of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 (for short '**the MRTU & PULP Act**') before Industrial Court, Kolhapur. The Industrial Court, Kolhapur however, concurrently held that Petitioner could not prove his employment with the Respondent on the post of Driver and proceeded to dismiss the Revision Petition.

4) Mr. Kharge the learned counsel for the Petitioner would submit that since the Petitioner personally conducted the matter, he was unable to produce the relevant evidence on record. In my view, it was the responsibility of the Petitioner to produce the relevant evidence on record for the purpose of proving his service to the Respondent. Now it would be too late in the day to permit his legal heir to produce evidence with regard to his employment. The Petitioner has already passed away during pendency of the present Petition. This is yet another reason why this Court would be loathe to interfere in the concurrent findings recorded by the Labour Court & the Industrial Court.

5) In my view, concurrent findings of fact are recorded by the Labour Court and Industrial Court after assessing the evidence on record. In exercise of jurisdiction under Article 227 of the Constitution of India, it is impermissible for this Court to

re-appreciate the evidence. No case is made out for interfering with the concurrent findings of fact recorded by both the Courts bellow. The Writ Petition is devoid of merits and is dismissed with no order as to costs.

6) In view of dismissal of Writ Petition nothing survives in Civil Application. The same also stands disposed of.

[SANDEEP V. MARNE J.]

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signed by
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RAJENDRA
SHIMPI
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