

AGK

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

WRIT PETITION NO.896 OF 2018

Subhash Shripat Khamkar & Ors. ... Petitioners
V/s.
Maharashtra State Road Transport
Corporation, through its Secretary
& Ors. ... Respondents

**WITH
WRIT PETITION NO.891 OF 2018**

Nateshwar Raghunath Shirdhankar ... Petitioner
V/s.
Maharashtra State Road Transport
Corporation, through its Secretary
& Ors. ... Respondents

Mr. Srikrishna R. Ganbavale for the petitioners.
Ms. Pinky M. Bhansali for respondent Nos.1 & 2.

CORAM : AMIT BORKAR, J.

DATED : MARCH 7, 2024

P.C.:

1. The petitioners in both these writ petitions are challenging order passed by the Industrial Court dismissing Complaint filed under Section 28(1) read with items 9 and 10 of Schedule-IV of the Maharashtra Registered Trade Unions & Prevention of Unfair Labour Practice Act, 1971 claiming benefits of Clause-49 of the Settlement of 1956.

2. According to the petitioners, they worked with the respondent/Corporation on regular time-scale for 180 days as per Clause-49 of the Settlement of 1956. However, the respondent failed to place them on regular time-scale in defiance of Clause-49 of the Settlement of 1956.

3. The respondents contested the complaint by filing reply. According to the respondents, apart from complaint being barred by limitation, it was contended that the respondents have not committed any breach of Clause-49 of the Settlement of 1956 as the petitioners never performed their work continuously for 180 days.

4. The Industrial Court dismissed the complaint on two grounds: (i) complaint is barred by limitation; and (ii) on the point of failure to prove continuous service for 180 days.

5. On perusal of the averments in the complaint, it appears that the petitioners failed to plead that they worked continuously for 180 days in their complaint. Moreover, according to the respondents Settlement of 1956 granted benefits only to the employees who worked for 180 days continuously.

6. According to the petitioners, paragraph 4 of the Complaint refers to the annexure and the annexure provide details. On perusal of the annexure, it is not possible to accept the petitioners' contention that the averments in the writ petition can be construed as 180 days continuous work. In absence of averment, the Industrial Court has rightly concluded that the petitioners worked for 180 days continuously. In absence of entitlement as provided

by Clause-49 of the Settlement, the Industrial Court has rightly dismissed the complaint. Hence, there is no legal infirmity in the order impugned in these writ petitions.

7. Both the writ petitions are, therefore, dismissed. No costs.

(AMIT BORKAR, J.)