

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 13008 OF 2019**

Umakant Krishna Memane

....Petitioner

:V/s :

The Superintendent Engineer, Mah.
Jeeva Pradhikaran and anr.**...Respondents**

Mr. Anurag Jain, for the Petitioner.**Mr. Ajit Ram Pitale, for Respondent Nos.1 and 2 on V.C.**

CORAM : SANDEEP V. MARNE, J.**Dated : 23 January 2024.****P.C. :**

1. The challenge in the present petition is to the Order dated 24 October 2018 passed by the Member, Industrial Court, Pune dismissing Complaint (ULP) No. 113 of 2016.

2. I have heard Mr. Jain the learned counsel appearing for the Petitioner and Mr. Pitale, the learned counsel appearing for the Respondents.

3. The grievance of the Petitioner in the complaint was about supersession on the post of Senior Clerk and Desk Officer by one Shri. R.T. Bhangare. It is Petitioner's case that he was directly recruited on the post of Junior Clerk on 6 November 1984, whereas Shri. Bhangare who was initially recruited to the post of Karkoon on 15 April 1981, was subsequently redesignated on the post of Junior Clerk on 1 June 1985. Therefore, it is Petitioner's case that since Shri. Bhangare came in the cadre of Junior Clerk (1 June 1985) subsequently as compared to Petitioner (6 November 1984), the name of the Petitioner was reflected at serial no. 429 in the seniority list published in the year 1992 as against Shri. Bhangare's name at serial no.466.

4. It appears that Shri. Bhangare was promoted to the post of Senior Clerk on 12 July 1989. According to the Petitioner, promotion of Shri. Bhangare was in supersession of Petitioner, who was subsequently promoted as Senior Clerk on 24 July 1991. However, Petitioner did not challenge Shri. Bhangare's promotion immediately after 12 July 1989. Subsequently, Shri. Bhangare was further promoted to the post of Desk Officer on 15 June 1995, which promotion was granted to the Petitioner on 9 January 2013. It is only after his supersession on two occasions in 1989 and 1995 and his own promotion to the post of Desk Officer in the year 2013 that the Petitioner woke up out of deep slumber and addressed representation dated 16 September 2013 questioning grant of promotions to Shri. Bhangare before him.

5. Considering the above conduct of the Petitioner, the Industrial Court has held that the complaint filed by the Petitioner was not within limitation.

6. Another folly committed by the Petitioner in prosecuting the litigation before the Industrial Court was failure to implead Shri. Bhangare as party Respondent. It is elementary principle of law that if Petitioner was comparing himself with Shri. Bhangare and wanted a declaration that he is senior to Shri. Bhangare, he ought to have impleaded him as a party respondent to his complaint. In my view therefore, the Industrial Court has therefore rightly rejected the complaint of the Petitioner, both on the grounds of limitation as well as failure to implead Shri. Bhangare. No serious error is traced in the order passed by the Industrial Court. The petition, being devoid of merits, is **rejected**.

SANDEEP V. MARNE, J.