



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 168 OF 2019**

**(Shri Sunil s/o Digambar Lilhare Vs. Establishment Officer/Deputy Commissioner of Sales Tax, Gondia & Anr.)**

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.

Court's or Judge's orders.

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Shri S.S. Shingane, Counsel for the petitioner.  
Shri S.C. Joshi, A.G.P. for respondents/State.

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**CORAM : ANIL L. PANSARE, J.**  
**OCTOBER 23, 2024**

The petitioner is before this Court against a concurrent finding. The petitioner was appointed as a daily wager driver on 2/7/2008. His services were allegedly continued for eight years, i.e., up to 3/8/2016. Thereafter, his services were terminated.

2] The Labour Court, considering the nature of appointment, has held that non-compliance of Section 25F of the Industrial Disputes Act, 1947 (for short "ID Act"), while terminating the services of a daily wager, will not entitle him to reinstatement because he could be granted retrenchment compensation. Accordingly, the Labour Court declared that the respondents having engaged in unfair labour practice by terminating the services of the petitioner and directed to pay lump sum compensation of Rs.2,00,000/- in lieu of reinstatement in addition to retrenchment compensation as per Section 25F of the ID Act.

3] The Industrial Court, while dismissing the revision, has referred to various judgments, including the

judgment in the case of *Devinder Singh Vs. Municipal Council, Sanaur* [2011(5) Mh.L.J. 503], wherein it was held that a daily wager, who is retrenched by violating the provisions of Section 25F of the ID Act, may be reinstated in service or may be granted retrenchment compensation. Accordingly, the Industrial Court held that the law, as settled, provides that in the event the services of daily wager are terminated without complying with Section 25F of the ID Act, the employee may either be reinstated or granted retrenchment compensation. The finding of the Labour Court and the Industrial Court is in tune with the settled principles of law.

4] The learned Counsel for the petitioner submits that vacant position for driver was available. As against, the learned A.G.P. submits that there was no vacant post available.

5] Thus, it is not clear whether or not vacant post was available. In any case, the fact remains that the petitioner was appointed as daily wager driver. Needless to say that the appointment was not in terms of regular mode, i.e., by issuing advertisement soliciting applications from all eligible candidates.

6] In that view of the matter, I am not inclined to interfere with the concurrent finding in writ jurisdiction. The petition is dismissed. No costs.

**(ANIL L. PANSARE, J.)**

Sumit