



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

Writ Petition No. 643 of 2011

(1) Chief Executive Officer,
Zilla Parishad, Wardha.

(2) Social Welfare Officer,
Zilla Parishad, Wardha.

... Petitioners

- Versus -

(1) Smt. Venu Jalandhar Wasekar,
Helper, Industrial Training Institute
for the Handicap, Aurangabad.

Amended as
Per Court's
Order dtd.
9-8-2011

Smt. Venu Jalandhar Wasekar,
C/o Government Training Centre,
for Adult Handicapped, N-12,
CIDCO, Aurangabad.

(2) State of Maharashtra,
through the Secretary,
Department of Social Welfare,
Mantralaya, Mumbai – 400 032.

(3) Handicap Welfare Commissioner,
Handicap Commissionerate, Pune.

(4) Superintendent, Government
Multipurpose Group Complex
for Handicaps, Wardha.

... Respondents

Mr. J. S. Mokadam, Advocate for the petitioners

Mr. M. P. Kariya, Advocate for respondent no. 1

Mrs. M. A. Barabde, AGP for the State/respondent nos. 2 to 4

CORAM : ANIL L. PANSARE, J.

DATED : 01-08-2024

ORAL JUDGMENT

The petitioners had engaged services of respondent no. 1 as Helper on daily wages. The respondent no. 1 in the year 1993 filed a complaint against the petitioners under Section 28 read with Items 5, 6 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.

2. The Industrial Court vide order dated 9-3-2005 allowed the complaint and declared that petitioners are engaged in unfair labour practice and further were directed to regularize the services of respondent no. 1 in her post from the date of filing of complaint, subject to the decision of complaint filed by respondent which was then pending before the Labour Court.

3. I am informed that the said complaint has been disposed of. The result may not be relevant here. What is relevant is that the respondent no. 1 filed application under Section 33(C)(2) of the Industrial Disputes Act, 1947 before the Labour Court being I.D.A. No. 07/2009. The Labour Court, by taking cognizance of the order dated 9-3-2005 passed by the Industrial Court, noted that though the Industrial Court has not directed to pay arrears of the wages, it has

not also rejected the said relief and, therefore, respondent no. 1 was entitled for monetary benefits also.

4. Thus, the Labour Court was of the view that since Industrial Court has not rejected the relief of back wages, it should be presumed that the relief has been granted.

5. Learned counsel for the petitioners submits that this finding is contrary to well settled principle of law. In the case of ***State Bank of India Vs. Ram Chandra Dubey [2000 AIR (SC) 3734]***, the Hon'ble Supreme Court held that "what is claimed but not granted necessarily gets denied in judicial or quasi-judicial proceedings".

6. In the light of above, the Labour Court's order would be unsustainable.

7. As such, learned counsel for respondent no. 1 made an attempt to justify the order on the ground that the regularization would follow back wages. However, this submission is not in consonance with what has been said by Hon'ble Supreme Court in ***State Bank of India*** case.

8. Resultantly, writ petition is allowed. Order dated 22-6-2010 passed by the Labour Court, Wardha in I.D.A. Case No. 07/2009 is quashed and set aside.

9. The amount of Rs. 1,00,000/- deposited by the petitioners be returned back to the petitioners along with interest, if any, upon furnishing usual undertaking.

10. Rule is made absolute in above terms.

(Anil L. Pansare, J.)

wasnik