



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2374/2011

Superintending Engineer, PWD and Ors. Vs. Ku. Usha Marotrao Kathane

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

Court's or Judge's orders

Ms K. Marpakwar, A.G.P. for petitioners.

CORAM : ANIL L. PANSARE, J.
DATE : SEPTEMBER 05, 2024

Heard Ms K. Marpakwar, A.G.P. for petitioners. None appears for the sole respondent.

2. A.G.P. submits that the respondent, in the year 1993, lodged two complaints against the petitioner. The first being Complaint ULP No.1101/1993 (subject matter of present petition) and another being Complaint ULP No. 1246/1993.

3. Having heard learned A.G.P., the issue involved is whether the respondent was, in December, 1981, appointed as Daily Rated Labour or was appointed as Clerk and whether she was entitled to the benefits under the CRTE w.e.f. 22.12.1986 as Labour or Clerk.

4. The Industrial Court, in the impugned order, noted that the respondent has produced a chart stating therein that she continuously worked as clerk from the year 1982. The petitioner's witness disputed such status and stated that this chart is not correct and further shown willingness to produce documents in support. The witness however failed to produce the document and accordingly the Industrial Court held that the

petitioner failed to demonstrate that the contents of the chart produced by the respondents were false.

5. Learned A.G.P. has invited my attention to the judgment dated 02.07.1998 passed by the Industrial Court in Complaint ULP No. 1246/1993, wherein the Court, in paragraph 8, noted that the respondent herein has admitted that on 22.12.1981, she was appointed as Daily Rated Labour and was brought on CRTE record on 22.12.1986. She admitted her signature on the pay roll where she was shown as labour. She further admitted that she received benefit under the GPF scheme.

6. In the aforesaid backdrop, learned A.G.P. submits that though it is true that the petitioners failed to produce documents in support, the respondent was also aware of the correct status of her employment and, therefore, ought to have brought this fact to the notice of the Industrial Court in the present proceedings. Accordingly, seeks liberty to submit evidence in support of the petitioners' claim that respondent was working as labour and not as clerk.

7. In my considered view, the petitioners have made out a case for opportunity to assist the Industrial Court to find out the truth. As such, the Industrial Court was right in holding that the petitioners failed to produce evidence despite opportunity having been given. At the same time, the respondent would also carry a blame of suppressing material facts from the Court. If she has admitted in another proceeding that she was working as daily rated labour and was brought on CRTE as Labour on 22.12.1986 and when finding to that effect

given by the Industrial Court had attained finality, she ought to have brought this fact to the notice of the Court in the present proceeding. Having not done so, the Industrial Court appears to have rendered a finding which is contrary to what has been held in Complaint ULP No. 1246/1993.

8. In that view of the matter, the petitioners deserve another chance to lead evidence in support of its case, particularly when there is no assistance by the respondent in the present matter to counter submissions made by the learned A.G.P.

9. The petition is accordingly partly allowed. Impugned order dated 12.02.2008, passed by Industrial Court, Nagpur in Complaint (ULP) No. 1101/1993, is quashed and set aside. Complaint ULP No. 1101/1993 is remanded back to the Industrial Court, Nagpur to decide afresh in the light of what has been stated hereinabove.

The petitioners shall appear before the Industrial Court on 07.10.2024. The Industrial Court shall, thereafter, issue notice to the respondent and proceed to decide the complaint as expeditiously as possible.

Rule is disposed of in the above terms. No order as to costs.

(Anil L. Pansare, J.)