



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

Writ Petition No.2950 of 2019

**VIDARBHA IRRIGATION DEVELOPMENT CORPORATION, THR.
EXECUTIVE ENGINEER, MEDIUM PROJECT DIV. AND ANR
VS
HARSHALATA D/O SOMAJI BANSOD AND ANOTHER**

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms Ujjwala A. Patil, Advocate for the Petitioner/s
Shri A.N. Vastani, Advocate for the respondent No.1
Shri H.R. Dhumale, AGP for the Respondent No.2/State

**CORAM : ANIL S. KILOR, J.
DATED : 27.02.2024**

1. Heard.
2. This writ petition takes exception to the judgment and order dated 18.01.2019 passed by the Industrial Court, Bhandara in Complaint ULP No.7 of 2018, holding that the petitioners have engaged in unfair labour practice as specified under Item 5, 6 & 9 in Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short "the Act of 1971") and further directed the petitioners to regularize services of the complainant by extending the benefits of CRTE with effect from the date of completion of 5 years of her services.
3. The brief facts of the present case are as under:

The present respondent No.1/complainant is working with the petitioners since 15.04.2011 as a 'Sweeper'. It is further case

of the complainant that, she worked for 240 days in each year of her services. The service of the complainant was terminated w.e.f. 01.07.2013 in absence of compliance of Section 25F of the Industrial Disputes Act, 1947 and accordingly, a complaint was filed before the Labour Court, Bhandara, wherein, the complainant succeeded and thereupon, she was reinstated on her former post with continuity of service and full back-wages.

4. The respondent No.1, thereafter, filed complaint ULP No.07 of 2018 to extend her benefits of CRTE w.e.f. the date of completion of five years period, in view of the Kalelkar Settlement Award.

5. The petitioners, in written statement, admitted the fact of employment of the complainant as a daily-wager, however, disputed the case of the complainant that, her recruitment was made after following a due procedure and against the sanctioned and vacant post.

6. The learned Industrial Court, after recording the evidence and after scrutinizing it with documentary evidence, passed the impugned judgment and order, allowing the complaint and thereby, directing the petitioners to regularize the complainant by extending the benefits of CRTE w.e.f. the date of completion of 5 years of her services. Hence, this petition.

7. I have heard the learned counsel for the respective parties.

8. The learned counsel for the petitioners submits that there is no sanctioned post to extend the benefits of CRTE to the complainant. It is submitted that the recruitment process was not

followed while appointing the complainant. She therefore, submits that the impugned order is erroneous and liable to be quashed and set aside.

9. On the other hand, the learned counsel for the complainant submits that, the whole case of the complainant is based on the Kalelkar Settlement Award and the applicability of it to the complainant and the said fact was never disputed by the petitioners. It is submitted that considering the evidence available on record, the learned Industrial Court has rightly granted the benefits of the Kalelkar Settlement Award to the complainant. Accordingly, he prays for dismissal of the present writ petition.

10. In light of the rival contentions of the parties, I have perused the record and the impugned judgment and order.

11. It is evident from the record that the petitioners never disputed the applicability of the Kalelkar Settlement Award to the complainant. Whereas, since beginning the complainant is claiming the benefits of the Kalelkar Settlement Award.

12. In the cross-examination of the complainant, the petitioners have not given any suggestion as regards non availability of the sanctioned post.

13. Furthermore, in the examination-in-chief of the witness of the petitioners, no evidence was brought on record in support of the case of the petitioners that, there is no sanctioned post.

14. On the contrary, in the cross-examination of the witness of the petitioners, he has admitted that the work available with the department is perennial in nature and the same is still available with the department.

15. It is further admitted that the co-workmen were benefited with permanency by the department in pursuance of the direction from the Court. It is further submitted that the complainant may be regularized in service, in case a proposal is sent to the State Government.

16. Thus, it is evident that there is an availability of work which is of perennial in nature. Thus, considering the fact that the applicability of the Kalelkar Settlement Award to the complainant was never disputed by the petitioners, the learned Industrial Court has rightly directed the petitioners to extend the benefits of CRTE to the complainant.

17. In that view of the matter, I do not find any error committed by the learned Industrial Court in allowing the complaint and extending the benefits of CRTE in view of the Kalelkar Settlement Award, to the complainant. Hence, the writ petition is **dismissed.**

[ANIL S. KILOR, J.]