



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

WRIT PETITION NO. 3264 OF 2015

(MAHARASHTRA JEEWAN PRADHIKARAN & ANR..VS.. ABDUL AZIZ SHEIKH KADAR, AMRAVATI
& ANR,)

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

Court's or Judge's orders

Shri D.M.Kakani, Advocate for Petitioners.
Shri Tejas Deshpande, Advocate for Respondent No.1.
Shri Ujwal Fasate, A.G.P. for Respondent No.2.

CORAM : ANIL S. KILOR, J.
DATED : JANUARY 16, 2024.

1. Heard.
2. The judgment and order dated 21/11/2014 passed by the Industrial Court, Amravati allowing the complaint filed by the respondent No.1 for the wages/salary for the post of Fitter and thereby directing the petitioners to pay higher pay scale for the post of Fitter to the complainant-respondent No.1 from the date of his absorption till the date of complaint, is under challenge in this writ petition.
3. The respondent No.1/complainant was appointed on the post of Coolie initially in Water Department on the establishment of the Municipal Council, Amravati. Subsequently, by virtue of the agreement dated 09/08/1983 the Municipal council transferred its Water Supply and Distribution System

along with its assets and 110 employees serving in their department to the petitioner-Pradhikaran. Accordingly the respondent No.1 was absorbed in the petitioner-Pradhikaran.

4. It is the case of the respondent No.1 that since beginning though he was appointed as Coolie, he was discharging the duties as Fitter. It is submitted that the post of Fitter is Class-III, whereas the post of Coolie is Class-IV post and there is much difference in wages/ salary of both the posts. He, therefore, filed a complaint claiming monetary benefits for the post of Fitter.

5. The case of the respondent No.1 was opposed by the petitioners on the ground that since beginning the respondent No.1 is working as Coolie and as no sufficient evidence has been produced to show that he was working as Fitter, the respondent No.1 is not entitled for the relief as claimed in the complaint.

6. The learned Industrial Court, after hearing both the parties, allowed the complaint and directed the petitioner-Pradhikaran to pay higher pay scale to the petitioner as applicable to the post of Fitter, vide judgment and order dated 21/11/2014, the same is the subject matter of challenge in the present writ petition.

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

8. Shri Kakani, learned counsel for the petitioners submits that without making any representation or complaint as regards his grievance, the respondent No.1 directly approached to the Industrial Court by filing the complaint. It is submitted that sufficient evidence was not produced by the respondent No.1 to establish that he was working as Fitter. It is submitted that the duty list was not produced on record to establish the fact that to disconnect and connect the water supply connection, are the duties of the Fitter. Attention of this Court has been drawn to certain admissions in cross-examination, which according to the learned counsel for the petitioners, disentitles the respondent No.1 from claiming any benefit for the post of Fitter.

9. Shri Kakani, learned counsel for the petitioners pointed out the documents viz. Exh.31, 32 and 33 and submits that in the above referred documents the respondent is not referred as Fitter. He, therefore, submits that relying upon said documents and granting relief by the Industrial Court is erroneous. Accordingly, he prays for quashing and setting aside the impugned judgment and order.

10. On the other hand, Shri Deshpande, learned counsel for the respondent No.1 has drawn attention to the certain documents, more particularly document at Exh.36, signed by the Sectional Engineer of the petitioners, wherein the respondent No.1 was shown as Fitter. Furthermore, he has pointed out the proposal submitted by the petitioners for promotion of the respondent No.1 to the post of Fitter. He, thus, submitted that there is ample evidence available on record, which was produced by the respondent No.1 to establish his case.

11. It is submitted that Exh.31, though does not refer to any post, however, it discloses the fact that the respondent No.1 attended the training conducted by the Research & Training Centre of Maharashtra Water Supply and Sewerage Board, Nashik Road, from 13/12/1999 to 15/12/1999 in relation to the course "*Leak Detection Technique in Water Distribution System*".

12. Shri Kakani, in reply submitted that though the above referred certificate was issued by the Research Training Centre, Nashik, however, the training was held at Amravati.

13. Shri Deshpande further points out that the submission of the learned counsel for the petitioners that no representation or grievance was raised before the petitioners and the complainant directly approached the

Industrial Court, is contrary to the record, as Exh.35 shows that before approaching the Industrial Court the respondent No.1 had made a representation to the petitioners and thereby claimed the benefits of the post of Fitter. He, accordingly, submits that, as there is no error committed by the Industrial Court in granting benefits to the respondent No.1, the petition may be dismissed.

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

15. From the record, particularly Exh.31, Exh.36 and the proposal submitted by the petitioners for promotion of the respondent No.1, it can be said that the learned Industrial Court is right in holding in favour of the respondent No.1 that since beginning he was working as Fitter.

16. Exh.36 refers the respondent No.1 as Fitter and Exh.31 shows the fact that the respondent No.1 had undergone training in December, 1999. Moreover, documents at Exhs.32 and 33 also support the case of the respondent No.1 that he was assigned with the work of connection or disconnection of the water supply.

17. In the circumstances, the Industrial Court has rightly held that the documentary evidence sufficiently show that the petitioner was working as Fitter since

beginning though he was absorbed as Coolie. Some admissions, here and there which have no much relevance or which would not help the petitioner to deny the rightful claim of the respondent in view of the documentary evidence would not help the petitioners in the present matter to succeed.

18. In the circumstances, as sufficient documentary evidence has been produced by the respondent No.1 and relying upon the same the Industrial Court has arrived at a definite conclusion that the respondent No.1 is entitled for the benefits as applicable to the post of Fitter, the findings recorded by the Industrial Court cannot be said to be perverse and suffered from any illegality or infirmity.

19. Accordingly, the Writ Petition is **dismissed**.

The amount deposited by the petitioners in this Court is permitted to be withdrawn by the respondent No.1 after six weeks from today, to enable the petitioners to approach to the higher Court, if they so desire.

In the circumstances, there shall be no order as to costs,

JUDGE