



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

Writ Petition No. 6595 of 2019

Abhijit S/o Mahadevrao Karnevar
Aged About 37 Years, Occu.
Terminated Employee
R/o Plot. No. 180, Sawarbandhe
Layout Hudkeshwar Road, Nagpur
Tah. Nagpur Dist. Nagpur.

.... Petitioner

VERSUS

- (1) State of Maharashtra
Through it's Secretary,
Department of Health
Mantralaya, Mumbai - 32.
- (2) Zilla Parishad, Gadchiroli
Through its Chief Executive
Officer, Tah. And District
Gadchiroli.
- (3) Medical officer,
Primary Health Centre Korchi
Tah. And District
Gadchiroli.

.... Respondents

Ms. Falguni Badani, Advocate (Appointed) for the petitioner
Mr. A. M. Joshi, A.G.P. for respondent no. 1
Mr. A. W. Paunikar, Advocate for respondent no. 2

CORAM : ANIL L. PANSARE J.

DATED : 16-07-2024

JUDGMENT

Rule. Rule made returnable forthwith. Heard finally with
consent of learned counsel appearing for the parties.

2. The petitioner is seeking to quash order dated 22-11-2018 in Revision (ULP) No. 46/2017 passed by the Industrial Court, Chandrapur. The Industrial Court has dismissed the revision and upheld the order dated 6-9-2017 passed by the learned Labour Court, Chandrapur in Complaint (ULP) No. 99/2014. Learned Industrial Court has dismissed the complaint filed by the petitioner under Section 28 read with Item 1 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.

3. Having heard both sides at length, what transpires is that the petitioner was appointed as Arogya Sevak (Male) on compassionate ground in place of his father. He claimed to have joined duty on 8-5-2001 and proceeded for long leave of about 13 years with effect from 28-5-2001. According to petitioner, he was suffering from Irritable Bowl Syndrome and was forced to avail leave.

4. The petitioner then himself states that he submitted joining report to respondent no. 2 – Zilla Parishad on 5-6-2014 along with medical fitness certificate. Respondent no. 2 did not allow him to join, which according to the petitioner amounts to termination of services. The petitioner, therefore, filed complaint on the ground that he was orally terminated from service with effect from 12-6-2014.

5. During the course of evidence, the petitioner has produced joining letter dated 8-5-2001. He performed duty till 27-5-2001 and thereafter proceeded on leave with effect from 28-5-2001. Respondent no. 2 has come up with a case that the petitioner did not join the services at all. In the cross-examination, the petitioner admitted that he had not signed on muster roll and had not applied for remuneration for the work allegedly done by him when he was in employment of the respondents. The Labour Court therefore, held that there is no evidence sufficient on the point of petitioner joining the services of respondent no. 2 on 8-5-2001 rather the case put up by the respondents was found to be more probable and accepted the same.

6. So far as absence on medical leave is concerned, it appears that the petitioner failed to call doctor, who treated him and, in turn, failed to prove his theory of serious illness that prevented him to join and continue with the employment. The theory of oral termination was also disbelieved for want of cogent evidence. Most importantly, the petitioner has admitted that in the intervening period, he had worked at other places of employment wherever the job was available to him. Accordingly, the Labour Court has dismissed the complaint. The Industrial Court in revision took a view that the overall evidence tendered by the petitioner appears to be improbable considering his

unbelievable theory of long duration of absence on medical grounds and accordingly dismissed the revision.

7. Considering the facts noted above, I am in complete agreement with the view taken by both the Courts below. The petitioner was appointed on compassionate ground. He appears to have not joined the duty but sought employment at various other places. He made an attempt to join the services after lapse of about 13 years of appointment order. There is, thus, every reason to believe that the petitioner has abandoned the duty. This cannot be a case of unfair labour practice.

8. In other words, I do not find any reason to interfere with the judgment passed by the Courts below. There is no merit in the petition. The petition is dismissed.

9. Rule is discharged.

10. Fees of learned counsel Ms. Falguni Badani appointed for the petitioner be quantified and paid in accordance with the rules.

(Anil L. Pansare, J.)