



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

Writ Petition No. 575 of 2023

[.....a Parishad, Nagpur through its C.E.O., Tahsil and District Nagpur and anr. **Vs.** Nivrutti
Pandurang Gadikar and anr.]

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

Court's or Judge's orders

Mr. G. G. Mishra, Advocate for the petitioners
Mr. S. M. Pande, Advocate for respondent no. 1
Mr. S. G. Zinjarde, Advocate for respondent no. 2

CORAM : ANIL L. PANSARE J.

DATED : 18-12-2024

Civil Application (CAW) No. 1053 of 2023

Learned counsel for the applicant is not
pressing for orders.

2. The application is dismissed.

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3. Heard.

4. The petition assails the judgment and order
dated 16-11-2019 passed by the Industrial Court, Nagpur
in Complaint (ULP) No. 31/2014.

5. The respondent no. 1 had filed a complaint
against the petitioner no. 1 and respondent no. 2 under
Section 28 read with Item Nos. 9 and 10 of Schedule IV of
the Maharashtra Recognition of Trade Unions and
Prevention of Unfair Labour Practices Act, 1971 (for short
'the Act of 1971'). The Industrial Court allowed the
complaint partly and declared that respondents therein
have committed unfair labour practice under Item 9 of
Schedule 4 of the Act of 1971. They were further directed

to release the salary for the period from 12-6-2012 to February, 2013 within one month from the date of filing of complaint.

6. Learned counsel for the petitioners submits that the respondent no. 1 was working as Section Engineer and, therefore, was not workman as defined under Section 2(s) of the Industrial Disputes Act, 1947 (for short 'the I.D. Act')

7. As against, learned counsel for respondent no. 1 has invited my attention to the pleadings made by respondent no. 1 stating therein that he was working as Section Engineer in Zilla Parishad, which is subordinate technical engineering services. He had no subordinate employee posted under him and had no supervisory and administrative powers.

8. Thus, the respondent no. 1 has come up with a case that he was subordinate technical engineer. In other words, his case is that he was doing technical work which to my mind is covered under the definition as envisaged under Section 2(s) of the Industrial Dispute Act and, therefore, can be said to be a workman.

9. That apart, the Industrial Court has considered this issue and while answering the same in favour of respondent no. 1 has assigned following reasons.

“15] The Complainant testified that he worked as Section Engineer under the Respondent No. 2 i.e. Deputy Engineer. He further testified that he did not have any supervisory and administrative powers. There is no challenge to the said contention of the Complainant on oath. The

Respondents did not lead any evidence to establish that the Complainant performed supervisory function. Even in the written statement the Respondent did not give details of job performed by the Complainant.

16] In the nature of aforesaid evidence, the Complainant has established that he is workman as defined under Sec. 2(S) of Industrial Disputes Act, 1947 and accordingly, Issue No. 2 is answered in the affirmative.”

10. As could be seen, the respondent no. 1 has deposed that he was working as Section Engineer and had no supervisory and administrative powers. This evidence has been not challenged by the petitioners nor had the petitioners challenged the pleadings made by the respondent no. 1 as regards nature of duties. The written statement in this regard is silent and there is no denial to what has been stated by the respondent no. 1 as regards his duty, which according to him was of technical nature, having no subordinate employee working under him and had no supervisory and administrative powers.

11. That being so, it cannot be said that the Industrial Court has committed any error in giving the finding that respondent no. 1 is/was a workman as defined under Section 2(s) of the I.D. Act.

12. Learned counsel for the petitioners has not pressed for orders on any other ground in the sense there is no other challenge to the impugned judgment.

13. Put altogether, the petitioners failed to show that the Industrial Court has committed any perversity in

rendering the findings. There is no merit in the petition. The petition is dismissed.

14. The amount deposited by the petitioners in terms of order dated 9-2-2023 be released in favour of respondent no. 1, who shall furnish necessary bank details to the Registry.

15. At this stage, learned counsel for respondent no. 1 submits that the amount of salary has been not properly calculated and the petitioner owe more than the amount deposited with the Registry. If that be so, respondent no. 1 is at liberty to take appropriate steps as available in law for recovery of balance amount.

16. Writ petition is disposed of in above terms.

(Anil L. Pansare, J.)