



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

946 WRIT PETITION NO. 2023 OF 2024

Ex Officio Chairman Of The
Dist Rural Development Agency ParbhaniPetitioner

VERSUS

Ravi Vyankatrao InamdarRespondent

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Mr. B. A. Shinde, AGP for the Petitioner.

Mr. P. P. Shahane, Advocate for the Respondent.

CORAM : R. M. JOSHI, J.

DATE : 14th JANUARY, 2025.

PER COURT :

1. This Petition takes exception to the judgment and order passed by the Industrial Court in complaint ULP No. 255/2015 dated 30.11.2022 whereby the Industrial Court has directed the Respondent/Petitioner herein to send proposal of the complainant for permanent status and consequential benefits since year 2015.

2. The facts which are necessary for decision of the petition are narrated in brief as under :-

Respondent/complainant filed complaint ULP No. 255/2015 before the Industrial Court, Jalna seeking permanency and consequential benefits. This complaint was resisted by Petitioner

by filing written statement wherein a specific plea was raised that Respondent/complainant had filed previous complaint bearing ULP No. 138/2022 seeking same relief of permanency and consequential benefits and the said complaint came to be dismissed on 17.10.2003. This dismissal of the complaint was challenged before this Court in Writ Petition No. 6494/2007 unsuccessfully. Thus, a specific plea of resjudicata is raised before the Industrial Court.

3. Learned AGP submits that the Industrial Court has committed error in ignoring the said plea raised by the Petitioner/original Respondent. It is his submission that it was not open for the Industrial Court to entertain the subsequent complaint on the same facts and for the same relief once previous complaint was dismissed.

4. Learned counsel for Respondent/original Complainant sought to defend the impugned order by submitting that since similarly placed workmen were granted relief by the Industrial Court and the said order was confirmed upto the Hon'ble Supreme Court, there was no impediment in allowing the complaint.

5. Without going into the merit of the order passed by the Industrial Court, at the outset, it needs to be seen as to whether the Industrial Court was competent to entertain the subsequent complaint on same cause of action and for the same relief. Admittedly, previous complaint bearing ULP NO. 138/2002 was filed with the contention that the Petitioner/original Respondent has deprived permanent status and benefits thereof to the complainant/Respondent herein. There is no dispute about the fact that the status of the complainant remained as temporary workman even after filing of the said complaint and dismissal thereof. The complaint came to be dismissed on merit. The said order was challenged before this Court in Writ Petition No. 6494/2007 which was dismissed. The complainant has not challenged this order before the Hon'ble Supreme Court. As such, the order of dismissal of complaint has attained finality.

6. Another question arises as to whether there was any change in the circumstances for entertaining the complaint qua the cause of action sought to be made out by the complainant. Merely for the reason that the complaints filed by co-workers were allowed, this cannot become a ground permitting the complainant to file fresh

complaint on the same cause of action. Industrial Court has committed serious error in not considering the specific objection raised by the Petitioner/Respondent with regard to the principle of resjudicata.

7. If the order passed by the Industrial Court is allowed to sustain, it will set a wrong precedent. This will enable the unsuccessful workman to file complaint of permanency year after year till the time he succeeds. This is never contemplated by law. As such, the judgment and order passed by the Industrial Court deserves interference. The same is set aside. As a result of this, complaint ULP No. 255/2015 stands dismissed.

8. Though the Petition is allowed and complaint is dismissed, this Court cannot ignore certain material facts which indicate that the workman is working for the period of over 27 years. His name is included in the proposal sent for regularisation in employment along with co-workers. Merely because the complaint is dismissed, complainant's right to get regularisation at par with other workmen cannot be denied. Hence, it is specifically clarified that allowing of this Petition and dismissing of the complaint will not

become an impediment for the complainant to seek benefit of permanency at par with other workers. Petition stands allowed in above terms.

(R. M. JOSHI)
Judge

dyb