



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 WRIT PETITION NO. 8890 OF 2016

THE EXECUTIVE ENGINEER MAHARASHTRA STATE ELECTRICITY
DISTRIBUTION COM LTD LATUR AND ANR
VERSUS
RAMESH TUKARAM KAMBLE

Mr. U. S. Malte, Advocate for the Petitioners (through VC)
Mr. S. S. Manale, Advocate for the Respondent

CORAM : R. M. JOSHI, J.

DATE : 12th SEPTEMBER, 2025

P.C. :-

1. By consent of both sides, heard finally at the stage of admission.
2. This Petition takes exception to the orders dated 04/07/2014 passed by the Labour Court, Latur in Complaint (ULP) No. 17/2011, whereby the termination of the Complainant-workman is held to be illegal and he is directed to be reinstated with the service with full back wages and continuity of service. This judgment and order passed by the Labour Court came to be challenged unsuccessfully before the Industrial Court, Latur in Revision (ULP) No.16/2015.
3. Parties are referred to as 'Complainant' and 'MSEDCL' for the sake of gravity.
4. The facts which lead to the filing of the present Petition can

be narrated in brief as under:-

(i) It is a case of the Complainant that he was employed with MSEDCL since 1990 and for last four years prior to the date of his termination on 13/04/2011 he was performing his duties as a watchman. He claimed in the complaint to have worked with MSEDCL continuously and uninterrupted. It is claimed that oral termination of Complainant is illegal and being contrary to the provisions of the law be declared as illegal and reinstated in service with full back wages and continuity of service.

(ii) MSEDCL has filed written statement initially denying the relationship between the parties as employer and employee. In the later portion of written statement, however, it is contended that the Complainant was appointed on contractual basis since 1990 and he performed the work as a security on contractual basis till 2011 and thereafter on his own accord he attended the work.

(iii) Learned Labour Court framed the issues. The Complainant entered in the witness box and apart from making statement on oath, documents were also relied upon in order to substantiate his case. The Complainant was cross examined by the learned Counsel for the MSEDCL, however, MSEDCL has failed to lead any evidence and to substantiate the said contention.

(iv) In this backdrop, Complaint (ULP) No. 17/2011 came to be allowed by order dated 04/07/2014. It is held that the MSEDCL has engaged in unfair labour practices and the termination order of the Complainant came to be set aside. The Complainant was directed to be reinstated in the service with full back wages and continuity of service. The Complainant has not challenged this order, but MSEDCL took exception thereto by Complaint (ULP) No. 16/2015. The Industrial Court, Latur by passing judgment and order dated 09/10/2015 upheld the order passed by the Labour Court, hence this Petition.

5. Learned Counsel for the MSEDCL submits that the MSEDCL is a statutory corporation as rules and regulations provided for recruitment. It is his submission that the Complainant was never appointed by following due procedure of law and as such he is not entitled to seek any relief in this regard. Attention of the Court is drawn to the written statement filed on record indicating the stand of the MSEDCL that the Complainant was working on contractual basis as a security personnel. It is his submission that during the cross-examination Complainant has admitted to have not been appointed after following due procedure of law. Thus, it is his submission that both Courts below committed error in holding termination to be illegal and directing to reinstatement of the the Complainant in the service with full back wages and continuity of service.

6. Learned Counsel for the Respondent supported the impugned order. It is his submission that in the facts of the case an appropriate direction is required to be issued to the MSEDCL for regularization of service of Complainant. In this regard reference is made to the order passed by this Court dated 06/03/2017, wherein it was expected by the Court that MSEDCL would have to come up with the scheme for absorbing the Complainant wherever the post of watchman or post with similar nature of work is available. There are certain further orders passed in this regard by this Court are also brought to the notice of this Court.

7. Learned Advocate for the Respondent has placed reliance on the judgments in case of *Bajaj Auto Limited Vs. Bhojane Gopinath D.*,¹ *Sunil Pralhad Khomane and Ors. Vs. M/s. Bajaj Auto Ltd., Akhurdi, Pune*², *J. Ganapatha and Others Vs. M/s. N. Selvarajalou Chetty Trust Rep. By its Trustees and Others*³, *Pasupuleti Venkateswarlu Vs. Motor and General Traders*⁴ and made reference more particularly to the judgment in case of *Shripal and Anr. Vs. Nagar Nigam, Ghaziabad*⁵, and *M.S. Sanjay Vs. Indian Bank and Ors.*⁶

8. At the outset it needs to be recorded that the Complainant

1 2003 DGLS (SC) 1080

2 AIZROnline 2021 Bom 30

3 2025 INSC 395

4 1975 DGLS(SC) 121

5 2025 LiveLaw (SC)153

6 2025 INSC 177

has not taken exception to the order passed by the Labour Court granting reinstatement in service with full back wages and continuity of service. This is not the case wherein regularization of service has been sought by the Complainant. The Complainant solely rest on the fact that his services are illegally terminated. In so far as the judgment in case of ***Shripal and Anr. Vs. Nagar Nigam, Ghaziabad*** (supra), the workman therein had referred the dispute concerning both regularization as well as legality of the termination. Having regard to the said fact, the High Court has granted the relief of regularization if permissible in law. Similarly in case of ***M.S. Sanjay Vs. Indian Bank and Ors*** (supra), it is observed by the Hon'ble Supreme Court that the High Court is required to take note of equitable consideration and mould the final order in exercise extraordinary jurisdiction. There could not even any issue for moulding the relief if it was framed and not granted by the Court below.

9. Needless to say that the issue of illegal termination and issue of regularization cannot be equated. For the purpose of regularization a specific plea of regularization will have to be raised so also it needs to be substantiated by evidence. Admittedly in this case, no such efforts are taken by the Complainant. Now calling upon this Court to exercise extraordinary jurisdiction and to direct regularization of the services would be improper for the reason that this Court cannot decide the said issue unless it was raised and evidence is led in this

regard. Merely because in the written statement it is contended by the MSEDCL that Complainant was working on contractual basis since 1990 till 2011, it does not become an admission for passing such order of regularization. Even though this Court at interim stage of the Petition has passed order on 06/03/2017, practically the said order has not been implemented with nor any further action being taken by the Complainant for non compliance of the said order. Needless to say that any interim order granted by this Court may not bind the same Court by final deciding the petition. As held above that for the purpose of deciding the issue of regularization a specific plea is required to be raised, so also there was the evidence to indicate so, this Court is not inclined to accept the said contention of the Complainant. The issue of regularization if permissible to be raised is kept open in accordance with law.

10. Coming back to the sustainability of the order passed by the Labour Court, perusal of the record indicates that the Complainant has filed complaint with specific contention that he is working with MSEDCL since 1990 continuously. The initial burden therefore was on the Complainant to substantiate his case. To support his case, he stepped in witness box and deposed on oath with regard to the contention in the complaint. During the cross-examination nothing is elicited on record that he has not worked for the said period for that he has voluntarily

left the employment. Apart from the oral evidence there is further evidence in the form of duty charge indicating that the Complainant was working under Senior Engineer, MSEDCL, Latur.

11. The Complainant therefore, has discharged initial burden on him to prove that the Respondent has committed unfair labour practices. The onus therefore shifted upon MSEDCL to substantiate its case and to dislodge the case of the Complainant. Admittedly, no evidence was led by the MSEDCL. Without there being any evidence, there is no presumption as to the existence of the Rules with MSEDCL for recruitment. At least it was expected from MSEDCL to step into witness box and support the said case. Over and above, this, there is nothing on record to indicate that the Complainant has left to service on his own accord. There seems no reason or justification for the Complainant to leave the job after performing the duties for more than 21 years.

12. In the afore stated facts, the learned Labour Court has rightly held that the services of Complainant are terminated illegally and without following due process of law and consequently, he is directed to be reinstated in the services with back wages and continuity. The Industrial Court has rightly refused to cause interference in the said order. Consequently, this Court finds no perversity in both orders in order to cause interference therein.

13. In the result, Petition stands dismissed.

(R. M. JOSHI, J.)

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