



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11862 OF 2018

Gulab Bharat Suryawanshi

....Petitioner

VERSUS

Chief Executive Officer Osmanabad & others

.....Respondents

.....

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

Mr. P. S. Chavan, Advocate for Respondent No. 1.

CORAM : R. M. JOSHI, J.

DATE : 31st JULY, 2025.

PER COURT :

1. This is a peculiar case wherein the Petitioner/original Complainant in Complaint ULP No. 147/2012 is practically forced to work on the additional post of Head Clerk. He, accordingly, accepts the said charge and works from 31.05.2011 to 23.01.2014. Since he was not paid the wages of the period of Head Clerk, Complaint came to be filed before the Industrial Court. As the said Complaint is dismissed by Industrial Court, this Petition.

2. There is no dispute about the fact that the Complainant is employed with Respondent No. 1 as a Group Secretary since 2007. Further, it is admitted that apart from his own charge, he was

holding the charge of two different villages. By order dated 06.05.2011 he was called upon to take additional charge of the post of Head Clerk. Since the Complainant did not assume the said charge, he was issued notice dated 30.05.2011 under the signature of Chief Executive Officer stating that non-resumption of the charge amounts to non-compliance of the order. The society has passed a resolution dated 30.11.2011 granting pay scale of Head Clerk to the Complainant. The Complainant worked as a Head Clerk however, was not paid wages as per the said resolution. Hence, Complaint came to be filed before the Industrial Court.

3. Respondents resisted the said Complaint by contending that the Complainant was not appointed on the post of Head Clerk. It is the contention of Respondents that in view of Rule 32A applicable to the employees, the Petitioner/Complainant would be entitled for additional wages to the extent of 20% only. It is their further contention that the resolution dated 30.11.2011 was not approved and hence the same would not bind them.

4. Learned counsel for the Petitioner submits that it was not mandatory for the Petitioner to work on the post of Head Clerk by

way of additional charge. By referring to the communication addressed by the Union dated 25.11.2011, he submits that no one was ready to work on the additional charge of Head Clerk and by assuring the Petitioner of payment of two additional increments, he was made to accept the said proposal. According to him, as per letter issued by C.E.O., he was practically forced to accept charge of Head Clerk. It is his contention by referring to the judgment of Industrial Court that the Industrial Court has failed to take into consideration the documents placed on record which include correspondence and the orders issued by the Chief Executive Officer to the Complainant. It is his submission that the Industrial Court has erred in taking into consideration all facts and circumstances of the case and wrongly refused to consider the documents produced on record by Complainant.

5. Learned counsel for Respondents supported the impugned order. It is argued that as per Rule 32A, 20% additional pay is granted to the Petitioner and as such nothing was due and payable to him. It is further contended that the resolution passed by the society on 30.11.2011 was not approved and hence the same would not bind the Respondents. It is also pointed out by referring

to the order impugned that the Industrial Court has refused to consider the documents placed on record on the ground that they are not proved by the Complainant.

6. Since the documents placed on record by the Complainant were mostly communications addressed by the Respondents, infact there was no reason for the Industrial Court not to consider the said documents. In any case, even if it is accepted for the sake of argument that said documents were not proved by the Complainant, it was necessary for the Industrial Court to give an opportunity to the Complainant to prove said documents. It is only while passing final order such observations are made, thus Complainant is denied an opportunity to prove the relevant documents before the Industrial Court. The documents produced on record record are prima facie relevant for decision of the Complaint.

7. Apart from this, the Industrial Court was also required to take into consideration the circumstances in which the Complainant was made to work as a Head Clerk as an additional charge. This aspect also needs to be taken into consideration by the Industrial Court while deciding the Complaint coupled with the relevant rules

applicable, since Complainant claims remuneration of the post, on which he admittedly worked for substantial period.

8. Having regard to the aforesaid facts, since the opportunity of proving documents was denied to the Complainant, it is a fit case for setting aside the impugned order. Impugned order therefore is set aside.

9. The parties are directed to appear before the Industrial Court on 18.08.2025. Since the Complaint is of the year 2012, the Industrial Court is directed to decide the same finally on merit within a period of six months from today.

10. Petition stands allowed in above terms.

(R. M. JOSHI)
Judge

dyb