

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1406 OF 2024

Pune Mahanagar Parivahan Mahamandal Ltd. ... **Petitioner**

Versus

Navnath Nivrutti Kapse and Anr ... **Respondents**

Ms. Madhavi M. Tavanandi *for the Petitioner.*

CORAM : SANDEEP V. MARNE, J.

DATE : 3 FEBRUARY 2025.

P.C. :

1) It appears that the present Petition is governed by order dated 11 November 2024 passed in Writ Petition No. 1615 of 2024 (Pune Mahanagar Parivahan Mahamandal Ltd. Vs. Shri. Ashok Bhau Buchade & Anr.) The order reads thus:

1) Petition challenges Award dated 8 May 2023 passed by the learned Presiding Officer, Labour Court No.4, Pune, in Reference IDA No.127 of 2019 by which the Labour Court has directed the Petitioner to reinstate the Respondent No.1 without any backwages.

2) I have heard Ms. Tavanandi, the learned counsel appearing for the Petitioner and have considered the submissions canvassed by her. It is seen that Respondent was initially engaged as a Badli Driver and was converted as a regular appointee by regularising him on 14 June 2010. Perusal of the written statement filed by Petitioner would indicate because Respondent No.1 remained unauthorisedly absent, the Depot Manager took decision to engage him as Badli Driver by office order dated 19 October 2013 when he reported for duty. Such an action on the part of the Depot Manager was obviously illegal. Once Respondent No.1 was regularised in

service, he could not be converted as a Badli Driver, that too by passing of order by Depot Manager. If the Respondent No.1 was remaining unauthorisedly absent disciplinary enquiry should have been initiated against him and he could be removed or dismissed from service if the charge was held to be proved. Therefore, action of Depot Manager in converting services of Respondent No.1 into 'Badli' service by order dated 19 October 2013 is itself erroneous. It appears that by treating Respondent No.1 as a mere Badli Driver, the Petitioner proceeded to terminate his services on 26 May 2014 on the allegation of unauthorised absence from 6 April 2014 to 26 May 2014. Again while effecting such termination, no disciplinary enquiry was conducted, possibly on account of the fact that the Respondent No.1 was being treated as a mere Badli Driver. As observed above, he could not be treated as Badli Driver once he was regularised in service. Therefore, termination of Respondent No.1 on 26 May 2014 without holding disciplinary enquiry was clearly erroneous.

3) Ms. Tavanandi would highlight inordinate delay on the part of Respondent No.1 in raising dispute. She would submit that though services of Respondent No.1 were terminated on 26 May 2014 the Reference to the Industrial Court was made only in the year 2019. However, considering the delay on the part of Respondent No.1 in raising dispute within reasonable time, the Labour Court has not granted backwages to the Respondent while directing his reinstatement.

4) Considering the overall conspectus of the case, I am of the view that no patent error can be traced in the impugned Award passed by the Labour Court.

5) Writ Petition is accordingly dismissed.

2) For the reasons recorded for a dismissal of Writ Petition No. 1615 of 2024, the present Petition also stands **dismissed**.

[SANDEEP V. MARNE, J.]