



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1398 OF 2024

Roshan Nandu Patil

...Versus...

Chief Officer, Nagar Parishad, Malkapur District Buldhana

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

Court's or Judge's orders

Mr. M.G. Rathi, Advocate for petitioner
Mr Abhay Sambre, Advocate for respondent.

CORAM : SACHIN S. DESHMUKH, J.

DATE : 08/08/2025

1. Heard.
2. Perused the record, more particularly the order dated 24.04.2015 issued by the Chief Officer, Municipal Council, Malkapur, engaging petitioner as a fireman. However, remuneration would be paid only after approval by the State Government.
3. While resisting the complaint, the Chief Officer presented its written statement, has admitted in unequivocal terms that the petitioner has worked for the period commencing from 26.04.2015 to 31.10.2021. In spite of same, salary is not paid to the petitioner, as such Section 58 of the Indian Evidence Act, 1872 springs into action. The fact admitted need not be proved, resultantly, reasons recorded in order under challenge are unsustainable.
4. The approach of the Chief Officer, Municipal Council as a statutory authority, pertinently a State instrumentality is unconscionable since it has indulged in an exploitative approach towards the employee, contrary to constitutional obligation. The approach of the State instrumentalities towards

individuals must be fair and reasonable, which is a fundamental aspect of rule of law and key component of Article 14 of the Constitution guaranteeing equality. As such, it obligates the State and its instrumentalities to ensure its actions are not arbitrary or discriminatory. The approach of Chief Officer is in brazen violation of aforesaid settled and recognized principle. Since the services of petitioner are availed for considerable period, while using its domineering position and adopting exploitative approach without conferring remuneration which essentially should be as per the Minimum Wages Act.

5. These vital aspects are not taken into account by the Industrial Court resulting into failure to appreciate facts, leading to patent illegality. As such, it would be appropriate to remit the matter to the Industrial Court to re-consider the issue of appointment and admission on behalf of Municipal Council in relation to length of service rendered by petitioner in the light of observations recorded herein above.

6. Resultantly, the petition is partly allowed.

7. The order dated 01.11.2023 passed by Member, Industrial Court, Akola in Complaint (ULP) No.285/2021 is quashed and set aside.

8. The Parties are directed to remain present before the Industrial Court on **18.08.2025**.

9. In view of the aforesaid observations, writ petition stands **disposed of** with costs of Rs.2,000/- to be paid to the petitioner by respondent No.1 within two weeks from today.

(SACHIN S. DESHMUKH, J.)

