



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

WRIT PETITION NO.2069/2023

Municipal Council, Kanhan-Pipri through its Chief Officer, Kanhan-Pipri,
Tahsil – Parseoni, District Nagpur

...Versus...

Smt. Varsha wd/o Ravindra Urkude

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

Court's or Judge's orders

Mr. D.M. Kale, Advocate for appellant
Mr. R.M. Bhongade, Advocate for respondent

CORAM : ROHIT W. JOSHI, J.

DATE : 22/09/2025

1. The respondent was appointed on the post of Assistant Clerk with erstwhile Kanhan-Pipri Gram Panchayat which was accorded a status of Municipal Council vide notification dated 17/01/2014. The respondent was appointed on the aforesaid post in the Gram Panchayat on 07/03/2012. Her services were orally terminated w.e.f. 01/06/2015 by the petitioner – Municipal Council.

2. The respondent therefore filed Complaint (ULP) No.98/2016 challenging her termination. The said complaint was allowed by the learned Judge Labour Court No.3, Nagpur vide judgment and order dated 02/01/1919. The learned labour Court has held that the petitioner – Municipal Council had engaged in an unfair labour practice under Item I Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short hereinafter referred to as “MRTU and PULP Act”) and accordingly directed to reinstate the respondent in service with continuity and full back wages.

3. The petitioner filed revision under Section 44 of the MRTU and PULP Act challenging the said judgment. The same came to be dismissed by the learned Member Industrial Court No.3, Nagpur vide judgment and order dated 12/04/2022.

4. It will be pertinent to mention that before the learned labour Court the petition was proceeded *ex parte*, as contended by the learned Advocate for the petitioner and without written statement, as contended by the learned Advocate for the respondent. It is however not in dispute that the matter was not contested on merits of the petitioner – Municipal Council. In the revision filed before the learned Industrial Court, the Municipal Council produced various documents justifying its position.

5. The contention of the learned Advocate for the petitioner is that it will not be correct to say that the services of respondent were terminated. He states that while the Gram Panchayat was accorded status of Municipal Council, the list of employees was forwarded by the Gram Panchayat, Parseoni to Administrator of the petitioner - Municipal Council in which names of 61 employees were included for absorption of their services with Municipal Council. It is submitted that since the name of respondent did not find place in the said list, she was not continued in service.

6.. Learned Advocate for respondent has drawn attention of this Court to the said list to contend that the employees from serial Nos.56 to 61 are junior to the respondent. He draws attention to the employee at Serial No.56 and contends that the said employee is shown to be

working on the post of Assistant Clerk, the date of initial appointment being 01/11/2012.

7. The learned Advocate has drawn attention to certificates at page No.42 and 43 issued by the petitioner - Municipal Council. Perusal of certificate dated 25/09/2014 will demonstrate that the respondent was working on the post of Assistant Clerk in Tax Department of the Municipal Council from 07/03/2012 to 11/03/2013 on daily wages and thereafter from 12/03/2013 to 16/01/2014 on fixed pay. The certificate records that respondent was in service on 25/09/2014 i.e. date on which certificate was issued. Perusal of certificate dated 26/02/2016 will further demonstrate that the respondent was working on the said post as Assistant Clerk from 17/01/2014. Although the certificate indicates that respondent was in service as on the date of issuance of certificate i.e. 26/02/2016, it is not in dispute that the services of respondent were continued only up to 31/05/2015 and from 01/06/2015 she is not in service.

8. There is no statement in the petition that the respondent was in employment after 01/06/2015 onwards. Learned Advocate for the petitioner contends that the person whose name was forwarded by the Block Development Officer has been retained in employment and since the name of the respondent does not find place in the said list, she does not have any right to claim employment. He therefore contends that the petition deserves to be allowed.

9. Per contra, learned Advocate for the respondent contends that the respondent has duly proved that she has worked with the petitioner – Municipal Council for a period of

more than 240 days in two consecutive calendar years i.e. from 07/01/2012 till 31/05/2015. Learned Advocate further contends that at least one person is retained on the post of Junior Clerk although he is junior to the respondent. He further contends that respondent has requisite qualification for being appointed on the post of Assistant Clerk.

10. Learned labour Court has allowed the complaint on the ground that the evidence brought on record is sufficient to prove that respondent was illegally terminated and that the respondent has satisfied that she has worked for more than 240 days in a calendar year. In paragraph no.19, the learned Industrial Court has specifically observed that it was not even the case of petitioner that there was no post available for appointing the respondent or that there was any claim superior to that of the respondent.

11. In that view of the matter, no case for interference is made out so far as relief of reinstatement in service with continuity is granted.

12. The respondent has also filed affidavit stating that she was not in gainful employment till date of termination of services.

13. Perusal of the present petition so also the memo of revision will indicate that there is no denial to the said statement made on affidavit. In view of the above, the order of back wages also does not call interference.

14. The writ petition is dismissed. No order as to costs.

(ROHIT W. JOSHI, J.)