



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

WRIT PETITION NO.6340 OF 2023

Petitioners : 1. Sub-Divisional Engineer Minor Irrigation and Construction Sub Division, Akot.
 2. Executive Engineer, Minor Irrigation Division, Akola.
 3. Superintending Engineer, Minor Irrigation Circle, Akola.

– Versus –

Respondents : 1. Hasan Chinkaji Bharsakale, Aged about 63 years, R/o Chinchpani, Tq. Akot, District Akola.
 2. Roshan Rasul Solkar, Aged about 64 Years, R/o Chinchpani, Tq. Akot, District Akola.
 3. Government of Maharashtra, Through its Secretary, Irrigation Department, Mantralaya, Mumbai-32.

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Mrs. Ujjwala A. Patil, Advocate for the Petitioners.
Mr. P.S. Girdekar, Advocate for Respondent Nos.1 & 2.
Mr. S.B. Bissa, A.G.P for Respondent No.3.

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CORAM : **ROHIT W. JOSHI, J.**
DATE : **11th NOVEMBER, 2025.**

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally with the consent of the learned Advocates appearing for the parties.

02. The present petition is filed challenging the judgment and order

dated 10/01/2023 passed by the learned Member, Industrial Court, Akola in Complaint ULP No.4 of 2013. By virtue of the said judgment, the learned Industrial Court has declared that the petitioners have indulged in unfair labour practice under Items 6 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 and has directed the petitioners to grant the benefits of regularization and permanency in service to respondent Nos.1 and 2 - original complainants from 02/02/2007 along with all monetary benefits.

03. Perusal of the complaint will demonstrate that it is the contention of the respondents-complainants that they had worked for a period of more than 240 days with the petitioners-employer for a period of more than five years. The complainants claim that in view of the aforesaid, they are entitled to benefit of regularization in service as per the Kalelkar Award. Perusal of the judgment delivered by the learned Industrial Court demonstrates that a positive finding that the complainants had rendered service for a period of 240 days or more in each year for a period of five years, is not recorded.

04. In view of the aforesaid, in the considered opinion of this Court, the judgment and award dated 10/01/2023 is not sustainable. The matter is remitted back to the learned Industrial Court to decide the complaint afresh in the light of evidence on record. The learned Industrial Court shall record a positive finding as to whether the complainants had worked for a period of

240 days in each of five calendar years or not, and decide the complaint accordingly. The contention of the petitioners that the service should be rendered as a daily-wager and that the complainants were working on a work-charge basis and are, therefore, not entitled to avail the benefit of the Kalelkar Award, is also kept open.

05. The learned Industrial Court to decide the said issue afresh. The parties shall appear before the learned Industrial Court on 3rd December, 2025. The parties to note that separate notice for appearance shall not be issued. Since the complaint pertains to year 2013, the learned Industrial Court is requested to decide the same at the earliest and in any case before 30th April, 2026.

06. Rule accordingly with no order as to costs.

(Rohit W. Joshi, J.)