



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

WRIT PETITION NO.7211 OF 2024

(Zilla Parishad, Akola thr. its Chief Executive Officer and others Vs. Kishor Krushnrao Chokhat)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Ms. Deeplata Pandey, Advocate for Petitioner.
Mr. P. N. Verma, Advocate for Respondent.

CORAM: R. M. JOSHI, J.

DATE: 30th JUNE, 2025.

1. By consent of both sides, heard finally at the stage of admission.

2. This petition takes exception to the judgment and order dated 27.03.2024 passed in complaint U.L.P. No.46/2018 passed by the Industrial Court, Akola, whereby the complaint filed by the respondent under the Unfair Labour Practices Act, 1971 came to be allowed with a direction to the petitioner to pay the T.A. bill of the complainant to the extent of amount of Rs.2,17,767/-.

3. The facts can be narrated in the brief as under. The parties are referred to as complainant and Zilla Parishad for the sake of brevity.

4. Complainant was working with Zilla Parishad as Mistry Grade-II from 06.08.1986 he claimed to have been terminated w.e.f. 11.08.1987. On account of his termination litigation took place between the parties being complaint No.29/2000. The complainant was reinstated with

continuity of service but without back-wages. After the order of reinstatement was upheld by this Court in Writ Petition No.1059/2007, he was reinstated in service and he worked thereafter till he attained his age of superannuation. Since, the complainant was not paid T.A. bill to the extent of Rs.2,17,767/- complaint came to be filed before Industrial Court.

5. Zilla Parishad filed written statement opposing the complaint and recording the history of the case. It is denied that the complainant is entitled for the T.A. bills as claimed. Parties were permitted to lead evidence by the Industrial Court. After hearing both sides, impugned judgment came to be passed.

6. Learned Counsel for the petitioner Zilla Parishad submits that the claim of the petitioner is time barred in the view of provisions of Maharashtra Zilla Parishads and Panchayat Samitis Account Code, 1968. It is further submitted that there is admission on the part of the complainant about he receiving Rs.16000/- towards T.A. Bills. It is further argued that since the issue is time barred, it was not open for the Industrial Court to allow the complaint and grant the T.A. bills.

7. Learned Counsel for the respondent complainant supported the impugned order.

8. Perusal of the record indicates that in the written statement the issue of limitation was not raised. Needless to say that issue of limitation is mixed question of

facts and law. Hence, the same is required to be raised before the Court at first instance to enable the parties to substantiate or oppose the same. This is being not pure question of law cannot be permitted to be raised for the first time in writ petition. Moreover, in exercise of writ jurisdiction, it is not permissible for the petitioner to call upon this Court to reverse the findings of fact and to call interference in the impugned order.

9. Perusal of order passed by the Industrial Court indicates that the evidence led before the Court was duly considered. The complainant has entered into witness box and has stated on oath about he being not paid T.A. bill as claimed. The onus therefore shifted upon the respondent/management to prove otherwise. There is no evidence in rebuttal to indicate that the claim is already paid. The only defence sought to be raised before the Industrial Court was there was no financial clearance from the appropriate Government which cannot become a ground to deny the relief. It is immaterial whether the Government clears finance or not when there is right of employee to get T.A. under contract of employment.

10. The complaint is filed under Item 9 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 on the part of the employer. In case there is failure to implement award apparent or settlement, it amount to unfair labour practice. In the facts of the case the complainant has proved such unfair labour practices being committed and consequently

the direction to desist the same is fully justified.

11. In view of above discussion, petitioner has failed to make out any case to cause interference in impugned order. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

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