



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

Writ Petition No. 41 of 2024

Junior Engineer Maharashtra Jivan Pradhikaran and others Vs. Dattatreya Digambar
Gawande and others

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

Court's or Judge's orders.

Ms. M.P.Munshi, Advocate for petitioners.

Mr. V.B.Pise, Advocate for respondent nos.1 to 3.

Mr. Shubhankar Chimote, Adv. h/f Mr. Ved R.Deshpande, Advocate for
respondent no.4.

CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 16-10-2025.

1. Heard Ms M.P.Munshi, learned counsel for petitioners and Mr. V.B.Pise, learned counsel for respondent nos. 1 to 3 and Ms. Chimote, learned counsel for respondent no.4.

2. The petitioner challenges the order passed by the learned Labour Court in Complaint (ULP) No. 15/2016 dated 9th April, 2024, whereby the complaint filed by the present respondent came to be partly allowed thereby directing the complainants to be reinstated in service without granting back wages.

3. Being aggrieved and dissatisfied with the order passed by the Labour Court, the petitioners filed Revision (ULP) No.52/2014 under Section 44 of the MRTU and PULP Act, whereby the learned Industrial Court confirmed the order passed by the learned labour Court.

4. The learned counsel for the petitioners has strenuously submitted that both the Labour Court and Industrial Court had not considered the basic point which was raised by the petitioner that the respondents were not appointed by the

petitioners and they were appointed through Contractor and salary was not paid through cheque. He invited my attention to the specific contention raised that the complainants themselves have stated that they have received wages in cash and salary was neither paid through bank nor through government officials. The learned Labour Court and the learned Industrial Court did not deal with the issue of employer-employee relationship. Therefore, she prayed to allow the present writ petition.

She further contended that as per contents of the complaint, respondents were appointed orally therefore there is no record relating to their appointments and they are not appointed by the Authority by Maharashtra Jeevan Pradhikaran. No procedure was followed for appointments as well as payment of salary by way of cash. She further submitted that they were appointed under the scheme and now that scheme was already closed and after the closure, no question of continuation of their services arises. In support of her contentions, she relied upon the judgment of this Court in the matter of ***Sarva Shramik Sangh Vs. Janprabha Offset Works and another (2008-I-LLJ 287)***. The learned counsel relied upon para 16 of the said judgment, which reads as under:

“In view of the decision referred above, as held by the Hon’ble Apex court, when the relationship as employer and employee are disputed the Industrial Court while entertaining the complaint under Section 28 of the MRTU & PULP Act, had no jurisdiction to decide that issue. As stated above, in the present case, respondent No.2 denied the relations of employer and employee, so Industrial Court was having no jurisdiction to record a finding on that issue. So whatever may be the evidence adduced before Industrial Court on the point of establishing relationship that evidence cannot be looked into as that Court had no jurisdiction at all and the

finding on that issue being without jurisdiction needs to be quashed and set aside. The learned Single Judge has rightly held that the finding recorded by the Industrial Court is without jurisdiction and is liable to be set aside”.

5. There is no dispute about proposition of law formulated by the Division Bench of this Court in the above mentioned judgment. In view of the facts involved in the present case, the said proposition is not applicable herein.

6. Per contra, learned counsel for the respondents, submits that the petitioners were appointed orally and there is no dispute that they have completed 240 days of continuous service and they have been serving for more than five years. Thereafter, the petitioners abruptly removed the respondents from the services on 1.3.2006. Their services were terminated orally, aggrieved by which they had approached the Labour Court and filed complaints.

7. The learned counsels for the respondents submit that the contention about the appointments of the complainants through Contractor is taken only for raising defence but to that effect no record was produced. Learned counsel further submitted that there was no scheme placed on record before the Labour Court. Even there was no agreement on record placed before the Labour Court pointing out that they were appointed through Contractor. He further submits that the register which was maintained by the department was duly proved and the record was counter signed and verified by Mr.Chandurkar, Jr. Engineer and therefore, the learned counsel submits that the learned Labour Court has rightly allowed the complaint and directed the reinstatement without back wages and the same was challenged before the Industrial Court by the petitioners.

Therefore, he prayed for dismissal of the writ petition.

8. I have gone through rival submissions of both counsels and after going through the orders passed by the Labour Court as well as the Industrial Court, it clearly reveals that the complainants were terminated orally with effect from 01.03.2006, inspite of continuous service for more than five years and therefore, procedure under the Industrial Disputes Act ought to have been followed. As far as the grounds which are raised by the petitioners about the issue of the employee employer relation is concerned, it reveals that there is only contention raised by the petitioners placing any documents on record. It needs to be taken into consideration that when the complaint was filed, it was expected on the part of the petitioners-Authority/Department to place on record those documents regarding appointment of respondents through Contractor. More particularly, the learned Labour Court has considered the registers maintained by the Department regarding the payment of salary and those were duly proved and therefore, the learned Labour Court has rightly considered the matter and allowed the complaint partly.

9. In view of above discussion, I do not find any substance in the present writ petition to entertain it under Article 227 of the Constitution of India.

10. The writ petition is dismissed.

(Siddheshwar S. Thombre, J)