



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

WRIT PETITION NO. 524 OF 2024

Zilla Parishad, Yavatmal, through its Chief  
Executive Officer, Tahsil and District  
Yavatmal.

... PETITIONER

VERSUS

Sanjay Wamanrao Dhole  
Age : 58 Years, Occu : Service; R/o Gilani  
Nagar, Umarsara, Yavatmal, Tahsil and  
District Yavatmal.

... RESPONDENT

Mr. R. D. Bhuihar, Advocate for Petitioner.

Mr. A. M. Sudame, Advocate a/w Mr. Fidvi Ibrahim Abid, Advocate for  
Respondent.

CORAM : R. M. JOSHI, J.  
DATE : JUNE 25, 2025.

ORAL JUDGMENT

. Heard Mr. R. D. Bhuihar, learned Counsel for the Petitioner and  
Mr. A. M. Sudame, learned Counsel for Respondent.

2. This Petition takes exception to the order dated 8/12/2023 passed

by the Industrial Court, Yavatmal in Complaint (ULP) No. 106/2015, allowing the complaint.

3. Parties are referred to as 'Zilla Parishad' and 'employee' for the sake of convenience.

4. Following facts are admitted :

(i) The employee was initially employed with Grampanchayat. After completion of a period of ten years of service and when he became eligible to be appointed in Zilla Parishad, he came to be appointed so by order dated 7/8/2009. The employee continued in the service and thereafter superannuated.

(ii) He filed complaint under Item No.9 of Schedule IV of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 (*for short, 'the MRTU & PULP Act'*) seeking relief of the benefits of service for the period for which he was working with Grampanchayat.

(iii) It was his contention that he did not resign from the earlier service and, therefore, irrespective of the fact that there was a condition stipulated in the appointment order of getting benefit from the date of appointment, he is

entitled for the period for previous service. The Industrial Court accepted the said contention and passed impugned order.

5. The learned Counsel for Zilla Parishad submits that unless Unfair Labour Practices as contemplated by Item No.9 of Schedule IV of the Act is proved, Industrial Court had no jurisdiction to grant any relief in favour of the employee. He drew attention of the Court to the appointment order which, according to him, clearly indicates that the appointment was subject to the resignation of the employee from the previous service of Grampanchayat and that he would be entitled for the benefits of the employment from the date of appointment in Zilla Parishad. He also drew attention of the Court to the cross-examination of the complainant, wherein he admits the said terms and conditions having been accepted by him. Thus, once terms of employment are accepted without demur, it is not open for an employee to make any grievance about the same at later point of time. On these amongst other submissions, order impugned is sought to be set aside.

6. The learned Counsel for employee vehemently opposed the Petition by contending that once it is the admitted fact that the employee has not resigned from the service, he would be entitled for the benefits of the previous service too. It is his submission that the Industrial Court has rightly

placed reliance on the Judgment of this Court in the case of *Prafullakumar s/o Prabhakar Deshmukh V/s State of Maharashtra and others, 2018 (2) Bom.LC 46*. He supports impugned Judgment. In response to this submission, learned Counsel for the Petitioner has drawn attention of the Court to the facts of the said case, which according to him, indicate that pursuant to the policy decision of the Government the said benefits were extended to that employee. It is his contention that in the instant case the said Judgment has no application, as there is no policy/G.R. to cover case of employee herein.

7. At the outset, it needs to be recorded that since complaint has been filed by the employee under Item No.9 of Schedule IV of the Act, 1971, the initial burden would be upon employee to prove that there is failure on the part of the employer/Zilla Parishad to implement any award, agreement or settlement. Unless Industrial Court records finding of employer having engaged in unfair labour practices, it would not assume any jurisdiction to grant relief.

8. There is no dispute about the fact that the employee had completed 10 years of service with Grampanchayat and, therefore, he became eligible to be appointed in Zilla Parishad. Further, there is no denial of the fact that in order to become eligible for such appointment, the employee of Grampanchayat was required to tender resignation from service, meaning

thereby cessation of previous employment is a condition precedent for appointment. Thus, even if it is claimed by the employee that he had not resigned from the services, unless he was deemed to have been resigned from the services, he could not have been appointed in Zilla Parishad employment and consequently was not permitted to seek benefits of employment even from the date of appointment. It is not even a case of employee that the condition of resignation was waived by any positive order to that effect.

9. Apart from this, not only there is a stipulation in the appointment order with regard to the benefits being applicable from the date of the appointment, there is a candid admission of this fact by the employee in his evidence on oath. Pertinently employee does not specify which agreement, award or settlement is not implemented by Zilla Parishad. In the facts of the case it can be said that no unfair labour practices have been committed by the Zilla Parishad by denying him the benefits of previous employment. Thus, for want of commission of unfair labour practices, Industrial Court had no jurisdiction to give declaration thereof and to grant relief to the employee.

10. The Industrial Court proceeded to decide the complaint by placing reliance on the Judgment of ***Prafullakumar Deshmukh*** (*supra*). Perusal of the said Judgment indicates that there was a policy decision taken by the

management that wherever an employee of one Zilla Parishad resigns from the employment of that Zilla Parishad and takes employment in another Zilla Parishad, he is entitled for benefit of previous service. In the facts of the said case, this Court has held that such employee is entitled for the benefits of the previous employment. Needless to say that the facts of the present case totally differs from the one in the said case. Apart from the fact that the employee was not employed earlier with another Zilla Parishad, but in the instant case, it was a precondition that he resigns from the service of Grampanchayat and then he would be entitled to get appointment and the benefits thereof from the date of appointment. Furthermore, there is no policy decision or any circular being brought to the notice of this Court, which covers the case of the employee to get the benefits of previous employment with Grampanchayat.

11. As a result of above discussion, it is held that the impugned order has been passed by the Industrial Court in ignorance of the relevant facts and the provisions of MRTU and PULP Act. The impugned order cannot sustain being perverse and is hereby set aside.

12. Complaint (ULP) No. 106/2015 filed by the Respondent/complainant stands dismissed.

13. Writ Petition stands allowed.

**(R. M. JOSHI, J.)**

*vijaya*