

*Sayali*

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 12706 OF 2024**

**Suvarna Ratna Pimple**

Aged 38, Room No. 2, Choudhari Chawl,  
Harishandra Mahajan Road, Dahisar (E),  
Mumbai-400 068.

**... Petitioner**

**V/s.**

**Sahitya Ratna Lokshahir Annabhau Sathe  
Development Corporation Ltd.,**

Having its office at New Administrative Bldg.  
2<sup>nd</sup> and 3<sup>rd</sup> Floor, B Wing, R.C. Marg,  
Chembur, Mumbai-400 071.

**... Respondent**

**SAYALI  
DEEPAK  
UPASANI**

Digitally signed by  
SAYALI DEEPAK  
UPASANI  
Date: 2026.04.30  
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**WITH  
WRIT PETITION NO. 1161 OF 2026**

**Ramesh Narendra Chachle**

Age 33 Yrs. Shivshankar Chawl, Ganesh  
Chowk, Hanuman Tekadi, Borivali (East)  
Mumbai-400 068.

**... Petitioner**

**V/s.**

**Sahitya Ratna Lokshahir Annabhau Sathe  
Development Corporation Ltd.,**

Having its office at New Administrative Bldg.  
2<sup>nd</sup> and 3<sup>rd</sup> Floor, B Wing, R.C. Marg,  
Chembur, Mumbai-400 071.

**... Respondent**

**WITH  
WRIT PETITION NO. 12712 OF 2024**

**Laxman Pandurang Mungekar**

Aged 44, Room No. 3, Sita Niwas, Kajupada  
Raod, Swami Vivekanand Municipal School  
Kajupada Ganesh Chowk, Borivali (West),  
Mumbai-400 066

... Petitioner

V/s.

**Sahitya Ratna Lokshahir Annabhau Sathe  
Development Corporation Ltd.,**

Having its office at New Administrative Bldg.  
2<sup>nd</sup> and 3<sup>rd</sup> Floor, B Wing, R.C. Marg,  
Chembur, Mumbai-400 071.

... Respondent

WITH

WRIT PETITION NO. 3204 OF 2025

**Sahitya Ratna Lokshahir Annabhau Sathe  
Development Corporation Ltd.,**

Having its office at New Administrative Bldg.  
2<sup>nd</sup> and 3<sup>rd</sup> Floor, B Wing, R.C. Marg,  
Chembur, Mumbai-400 071.

... Petitioner

V/s.

**Nilesh Suresh Joshi**

Aged 30, Kasturba Zopadi Sangh No.1, FNX  
R. No. 89, Mahadev Nagar, Wadala, Mumbai-  
400 031.

... Respondent

WITH

WRIT PETITION NO. 2331 OF 2025

**Sahitya Ratna Lokshahir Annabhau Sathe  
Development Corporation Ltd.,**

Having its office at New Administrative Bldg.

2<sup>nd</sup> and 3<sup>rd</sup> Floor, B Wing, R.C. Marg,  
Chembur, Mumbai-400 071.

... Petitioner

V/s.

**Laxman Pandurang Mungekar**

Aged 44, Room no. 3, Sita Niwas, Kajupada  
road, Swami Vivekanand Municipal School,  
Kajupada, Ganesh Chowk, Borivali, Mumbai-  
400 066.

... Respondent

WITH  
WRIT PETITION NO. 3207 OF 2025

**Sahitya Ratna Lokshahir Annabhau Sathe  
Development Corporation Ltd.,**

Having its office at New Administrative Bldg.  
2<sup>nd</sup> and 3<sup>rd</sup> Floor, B Wing, R.C. Marg,  
Chembur, Mumbai-400 071.

... Petitioner

V/s.

**Nayna Nandkumar Salvi**

Aged 31, Sai Niwas, 2/2, R.S Bane Marg,  
Laxmibaug Ghatkopar (E), Mumbai-400 075.

... Respondent

WITH  
WRIT PETITION NO. 12709 OF 2024

**Nayna Nandkumar Salvi**

Aged 34, Sai Niwas, 2/2, R.S Bane Marg,  
Laxmibaug Ghatkopar (E), Mumbai-400 075.

... Petitioner

V/s.

**Sahitya Ratna Lokshahir Annabhau Sathe  
Development Corporation Ltd.,**

Having its office at New Administrative Bldg.  
2<sup>nd</sup> and 3<sup>rd</sup> Floor, B Wing, R.C. Marg,  
Chembur, Mumbai-400 071.

... Respondent

**WITH  
WRIT PETITION NO. 12714 OF 2024**

**Nilesh Suresh Joshi**

Aged 33, Kasturba Zopadi Sangh No.1, FNX  
R.No.89, Mahadev Nagar Wadala, Mumbai-  
400 031.

... Petitioner

**V/s.**

**Sahitya Ratna Lokshahir Annabhau Sathe  
Development Corporation Ltd.,**

Having its office at New Administrative Bldg.  
2<sup>nd</sup> and 3<sup>rd</sup> Floor, B Wing, R.C. Marg,  
Chembur, Mumbai-400 071.

... Respondent

**WITH  
WRIT PETITION NO. 3206 OF 2025**

**Sahitya Ratna Lokshahir Annabhau Sathe  
Development Corporation Ltd.,**

Having its office at New Administrative Bldg.  
2<sup>nd</sup> and 3<sup>rd</sup> Floor, B Wing, R.C. Marg,  
Chembur, Mumbai-400 071.

... Petitioner

**V/s.**

**Ramesh Narendra Chachle**

Aged 31, Shivshankar Chawl, Ganesh Chowk,  
Hanuman Tedadi Borivali (E), Mumbai-400  
066.

... Respondent

**WITH**

**WRIT PETITION NO. 3205 OF 2025**

**Sahitya Ratna Lokshahir Annabhau Sathe  
Development Corporation Ltd.,**

Having its office at New Administrative Bldg.  
2<sup>nd</sup> and 3<sup>rd</sup> Floor, B Wing, R.C. Marg,  
Chembur, Mumbai-400 071.

**... Petitioner**

**V/s.**

**Suvarna Ratan Pimple**

Aged 35, Room No.2, Chudhari Chawl,  
Harishchandra Mahajan Raod, Dahisar (E),  
Mumbai-400 068.

**... Respondent**

Mr. Vijay P. Vaidya, with Ms. Shraddha Chavan i/b  
Mahendra Agvekar, for petitioner in WP Nos.12706/2024,  
1161/2026, 12712/2026, 12714/2024, & 12709/2024  
and for respondent in WP Nos. 3204/2025, 3205/2025,  
3207/2025, 3206/2025 and 2331/2025.

Mr. Onkar Wable for the petitioner in WP/3204/2025.

Mr. Vijay B. Dighe for the petitioner in WP/3205/2025.

Mr. Chaitanya R. Kulkarni for the petitioner in  
WP/3207/2025.

Mr. Hrutik R. Chavan for the petitioner in WP/3206/2025.

Ms. Harshada Shrikhande i/by Mr. Saurabh Patil for the  
respondent in 12706/2024, 1161/2026, 12712/2026,  
12714/2024, & 12709/2024

**CORAM : AMIT BORKAR, J.**

**RESERVED ON : APRIL 18, 2026**

**PRONOUNCED ON : APRIL 30, 2026**

**JUDGMENT:**

1. Since an identical question of law arises for consideration in all the present writ petitions, and the factual background involved therein is same, this Court considers it appropriate to dispose of all the petitions by this common judgment and order.

2. By the present petitions instituted under Articles 226 and 227 of the Constitution of India, the petitioners have invoked the writ and supervisory jurisdiction of this Court and have called in question the legality, propriety, and correctness of the judgment and Award dated 28 December 2023 passed by the Labour Court in respective Reference.

3. The employer has also instituted separate petitions challenging the same judgment and Award passed by the Labour Court, insofar as it grants compensation to the workmen, and has sought dismissal of the references in their entirety.

4. The facts giving rise to the filing of the present petitions, stated briefly, are as follows. The petitioner challenges the Award dated 28 December 2023, whereby the Labour Court, while recording a finding that the termination of the petitioner was illegal, granted only a nominal lump-sum compensation in lieu of reinstatement and back wages. The petitioner had submitted an application dated 29 June 2013 to the respondent seeking appointment to the post of Clerk/Typist. The said application was made upon learning that vacancies existed for the said post in the respondent establishment. The petitioner possessed the requisite qualifications, was thereafter called for interview, and upon due

consideration came to be selected for appointment as Clerk-cum-Typist. It is the case of the petitioner that she was placed in the regular pay scale applicable to the post of Clerk/Typist, namely Rs. 5,200/- to Rs. 20,200/- with Grade Pay of Rs.1,900/- per month. According to the petitioner, she discharged her duties diligently and sincerely, and during the period of service there was no complaint whatsoever regarding her work or conduct. It is further asserted that along with the petitioner, 82 other employees were similarly recruited by the respondent. The petitioner states that in or about October 2015 she came to know that allegations had surfaced against the Chairman, Managing Director, and certain other officers of the respondent Organization to the effect that they had indulged in malpractice and fraud, resulting in initiation of criminal proceedings against them. It was alleged that the fraud committed by the said officials was to the extent of Rs. 147 crores. One of the accusations levelled against the executives of the respondent Organization was that recruitment of 82 employees in Categories C and D had been undertaken without obtaining prior permission of the State Government. It is further stated that the Enforcement Directorate as well as the Police issued notices to the newly appointed 82 employees for ascertaining whether any illegal gratification had been paid during the recruitment process. According to the petitioner, upon completion of detailed enquiry, the concerned authorities were fully satisfied that neither the petitioner nor the other recruited employees had indulged in any malpractice. The petitioner seeks leave to refer to and rely upon the report submitted by the Secretary, Department of Social

Welfare, which is stated to have exonerated the said employees.

5. By an order dated 5 April 2016, the petitioner came to be placed under suspension on allegations which, according to her, were wholly false and baseless. Thereafter, a charge-sheet dated 28 June 2017 was served upon her. Similar charge-sheets were also issued to other employees similarly situated. The petitioner submitted her reply denying all allegations and contended that she was being victimized by the officers of the Organization despite having no role in the fraud allegedly committed by the Chairman, Managing Director, and other executives or officers of the respondent. It is her grievance that false rumours were deliberately spread suggesting breach of procedure in the appointments of the petitioner and the other 82 employees.

6. An enquiry was thereafter conducted into the allegations contained in the charge-sheet dated 28 June 2017 through an independent Enquiry Officer. The enquiry proceeded on several dates and, upon conclusion of the evidence, the Enquiry Officer submitted a report dated 11 July 2018. By the said report, the petitioner was fully exonerated, and the allegations levelled against her were held to be false and baseless. The petitioner further states that during the pendency of the enquiry, she and the other suspended employees were not paid subsistence allowance, compelling them to institute Complaint (ULP) No.430 of 2016 alleging unfair labour practices. By an interim order dated 19 July 2017, the Industrial Court directed the respondent to pay 100% wages during pendency of the enquiry or until revocation of the suspension order. Immediately upon receipt of the said order, the



respondent revoked the suspension by communication dated 10 August 2017. According to the petitioner, after revocation of suspension she continuously worked in the respondent office until 27 July 2020. However, to her shock and surprise, the respondent decided to terminate the services of 74 employees recruited during the years 2012 to 2015, and by order dated 27 July 2020 the services of the petitioner also came to be terminated. It is further contended that nine employees appointed during the same period were retained in service and their services were not terminated.

7. Being aggrieved by the said termination, which according to the petitioner was illegal and unjustified, she along with 11 others approached this Court by filing Writ Petition No. 93601 of 2020 before the High Court at Bombay. By order dated 13 October 2020, the Division Bench permitted withdrawal of the said petition with liberty to adopt appropriate proceedings before the Labour Court. Pursuant to the liberty so granted, the petitioner raised an industrial demand by letter dated 23 October 2020 seeking reinstatement with full back wages and continuity of service. A copy thereof was also forwarded to the office of the Labour Commissioner requesting initiation of conciliation proceedings under Section 2-A of the Industrial Disputes Act. The petitioner asserts that despite waiting for issuance of notice of conciliation, no steps were taken by the office of the Labour Commissioner. Since no action was initiated for conciliation, the petitioner was constrained to directly approach the Labour Court under Section 2-A(2) of the Industrial Disputes Act, 1947.

8. In Application No. 45 of 2021, the petitioner, inter alia, contended that the termination of her services was illegal and unsustainable on several grounds. It was urged that if the impugned termination is construed as punitive in nature, the same is ex facie illegal since the Enquiry Officer had already exonerated her of all charges contained in the charge-sheet. It was further contended that if the termination is treated as simpliciter and non-punitive, even then the same would be vitiated for non-compliance with Section 25-F of the Industrial Disputes Act. The allegation in the termination order that the initial appointment of the petitioner was illegal was also challenged as untenable, it being asserted that all employees working with the respondent had been appointed in a similar manner and none through any public advertisement. According to the petitioner, the employees were being made scapegoats in the course of investigation into corrupt practices allegedly committed by the Chairman and Managing Director.

9. The petitioner further contended that the reasons assigned in the termination order were wholly illegal, and the decision had been taken in breach of the principles of natural justice. It was also alleged that Sections 25-G and 25-H of the Industrial Disputes Act had been violated inasmuch as the work earlier performed by the petitioner was thereafter being carried out by newly engaged persons through a contractor. On these grounds, reinstatement with full back wages and continuity of service was sought. The respondent opposed the proceedings by filing its written statement and contended that the reference before the Labour Court itself was not maintainable as the respondent did not constitute an

“industry” within the meaning of Section 2(j) of the Industrial Disputes Act, 1947. It was further contended that the petitioner’s appointment was itself illegal and, there being no compliance with Articles 14 and 16 of the Constitution of India, the termination order was justified and lawful.

**10.** The Labour Court, after hearing the parties and considering the material placed on record, passed the Award dated 28 December 2023 holding that the petitioner was entitled only to compensation of Rs.2,50,000/- and rejecting the claim for reinstatement, back wages, and continuity of service. The petitioner contends that the said Award is arbitrary, perverse, contrary to law, and unsustainable. On that basis, it has been urged that the impugned Award deserves to be quashed and set aside.

**11.** Mr. Vijay Vaidya, learned Advocate appearing on behalf of the petitioners, submitted that the Labour Court has committed a manifest error in failing to consider and properly apply the law laid down by the Hon’ble Supreme Court in the case of Shri Ajaypal Singh, wherein it has been clearly held that in proceedings arising under Section 2-A of the Industrial Disputes Act, the Labour Court cannot travel into the question regarding validity of the original appointment of the employee. According to the learned counsel, the Labour Court has erred, particularly in paragraph 21 of the impugned Award, in holding that the termination of service was attributable to an illegal appointment. It was contended that had the Labour Court duly appreciated that the petitioner had already been exonerated of the charge relating to alleged illegal

appointment, no such adverse conclusion could have been recorded. It was further submitted that the Labour Court has ignored the categorical findings of the Enquiry Officer, who had fully exonerated the petitioner from the allegations which formed the basis of disciplinary action. Learned counsel for the petitioners further submitted that the Labour Court ought not to have entered into the issue concerning legality of appointment, since the same was not the subject-matter referred for adjudication. According to him, the Labour Court has erred in paragraph 23 of the Award in failing to appreciate that none of the 213 employees who continued in service had been appointed pursuant to any procedure demonstrably compliant with Articles 14 and 16 of the Constitution of India. It was urged that termination of the petitioner alone, while retaining others similarly situated, clearly amounted to victimization and discriminatory treatment. It was further submitted that even retention of certain employees appointed along with the petitioner, without any rational or justifiable basis, constitutes hostile discrimination in law. He further submitted that the Labour Court has misconstrued the extent and nature of its jurisdiction while adjudicating a dispute under Section 2-A of the Industrial Disputes Act, 1947. It was contended that the Labour Court failed to consider the well-recognised principle of indoor management applicable to corporate bodies, under which an outsider dealing with the employer is entitled to presume that internal formalities have been duly complied with. According to the learned counsel, an employee accepting appointment is entitled to presume that the authority

issuing the appointment order was duly empowered and that the prescribed recruitment procedure had been followed by the employer.

**12.** Learned counsel submitted that the impugned action of termination was arbitrary and selective, inasmuch as out of 74 employees whose appointments were alleged to be illegal, 9 employees were continued in service though they had been appointed in the same manner. According to him, such selective retention clearly demonstrates victimization and unequal treatment. It was further argued that the Labour Court could not have adjudicated upon the legality of appointment, particularly when the proceedings arose from an application under Section 2-A(2) of the Industrial Disputes Act and not from a reference specifically made by the appropriate Government on such issue.

**13.** In support of the aforesaid submissions, learned counsel placed reliance upon the judgment of the Supreme Court in *Ajaypal Singh vs. Haryana Warehousing Corporation*, reported in (2015) 6 SCC 321. Relying upon the said decision, he submitted that the scope of enquiry before the Labour Court was confined to examining whether compliance with Section 25-F of the Industrial Disputes Act had been made prior to termination. He contended that the Labour Court wrongly cast the burden upon the petitioner to establish alleged irregularities in the procedure adopted for her appointment, though such burden did not legally lie upon her.

**14.** Learned counsel invited attention to paragraph 49 of the said judgment and submitted that the petitioners had no role

whatsoever in securing their appointments and were not aware of any alleged illegality said to have been committed by the then Managing Director or other officials. He further invited attention to orders passed by Labour Courts within the State of Maharashtra in respect of 9 similarly situated employees, wherein relief of reinstatement with full back wages had been granted. It was submitted that the respondent has accepted and implemented those judgments. On such premises, learned counsel submitted that the impugned judgment and Award deserve to be quashed and set aside.

**15.** Per contra, learned Advocates appearing for the employer submitted that in the facts of the case relied upon by the petitioners, no plea had been raised by the employer that the workman had been appointed in breach of Articles 14 and 16 of the Constitution of India or that the appointment was secured through a backdoor method. According to her, in the present matter a specific plea to that effect has been raised by the respondent-employer, and therefore the contention that the enquiry must be restricted only to compliance of Section 25-F is wholly inapplicable to the present facts. Learned counsel for the respondents invited attention to the findings recorded by the Labour Court that the appointments of the petitioners were void ab initio. She submitted that once such appointments are held to be void, no relief of reinstatement can be granted in law. It was further submitted that in the lead petition the respondents themselves have challenged the grant of compensation, since once the appointments are held void, even compensation in lieu of

reinstatement ought not to have been awarded. According to her, the grant of monetary compensation in such circumstances is legally unsustainable.

16. Learned counsel further submitted that from 13 August 2012 to 12 December 2014, one Mr. Ramesh Nagnath Kadam was functioning as Chairman of the respondent Corporation, while Mr. Santosh Shankar Ingale and Mr. Shravan Kisan Bavane were serving as Managing Directors. It was submitted that during the period from October 2014 to December 2014, the said officials were allegedly involved in corrupt practices and serious malpractices. The allegations included illegal appointments, irregular promotions, unlawful sanction and disbursement of loans, and other acts of misconduct. It was further submitted that on 22 December 2014, the issue of such corrupt practices was raised on the floor of the Maharashtra Legislative Assembly, whereupon the State Government assured investigation into the alleged financial irregularities. Pursuant to preliminary enquiry, an FIR came to be registered on 18 July 2015 at Dahisar Police Station, Mumbai under Sections 7 and 13(1)(c) of the Prevention of Corruption Act, together with Sections 406, 408, 409, 420, 465, 468, 471, 384, 120-B read with Section 34 of the Indian Penal Code.

17. Learned counsel for the respondents further submitted that the Government of Maharashtra appointed Mr. Ranjitsinh Deol, IAS, then Commissioner of Social Welfare, to conduct a departmental enquiry and submit a report regarding the illegalities committed during the period from 01 January 2010 to 31

December 2014. It was submitted that Mr. Deol submitted his report on 17 March 2015 and recorded several illegalities and irregularities, including appointment of 82 employees without following any prescribed recruitment procedure applicable to public employment. It was further noted in the report that no sanctioned posts were available, yet the said 82 employees were recruited without any lawful sanction of vacancies. Learned counsel then submitted that compensation on retrenchment can be awarded only in terms of Section 25-F of the Industrial Disputes Act, 1947, which provides both the condition precedent and the quantum payable under clause (b) thereof, namely compensation equivalent to fifteen days' average pay for every completed year of continuous service. According to the respondents, the petitioner was appointed on 1 August 2014 and her services came to be terminated by notice dated 27 July 2020, thereby completing approximately five years of service. It was therefore contended that at the highest, compensation equivalent to seventy-five days' average pay could be payable. On the aforesaid grounds, learned counsel prayed for dismissal of the present petitions.

### **REASONS AND ANALYSIS:**

18. Having heard the learned advocates for the parties and having examined the material placed before the Court. The petitioners rely upon *Ajaypal Singh* to say that in a proceeding under Section 2-A of the Industrial Disputes Act the Labour Court ought not to have entered into the question of validity of appointment. The respondents, on the other hand, rely upon the later line of authority, including *ONGC v. Krishan Gopal*, to submit



that where public employment is shown to have been obtained without sanctioned post, without due procedure, and in breach of Articles 14 and 16, the Court cannot compel reinstatement or perpetuate an illegality. Both sides are partly correct, but neither submission can be accepted in the manner in which it is pressed.

**19.** The first circumstance which emerges from the record is that the present matter does not arise out of retrenchment from a regular establishment. The materials relied upon by the respondents indicate that allegations of large-scale irregularities and misuse of authority had surfaced against the management of the respondent Corporation. It appears that because of those allegations, the Government authorities considered it necessary to direct a departmental enquiry. A report thereafter came to be submitted by the Commissioner of Social Welfare, and in addition thereto criminal proceedings were also initiated. The report records that appointments of 82 employees were made without following the recruitment process and without sanction of posts. It is true that the petitioners contend that they were interviewed, selected, and thereafter appointed, and that they had no participation in any irregular act of the then management. This submission may have relevance while considering fault of the petitioners. However, absence of personal misconduct on part of an employee cannot be equated with validity of the appointment. A person may not be involved in fraud, and still his appointment may suffer from defect if mandatory recruitment norms were bypassed. Therefore, the Court cannot close its eyes to material merely because the petitioners claim lack of involvement in the

misconduct.

**20.** If management officers committed acts beyond authority, the employee may not be criminally liable. Yet the question still remains whether such officers could validly create employment contrary to procedure. A finding that the petitioners were not parties to corruption cannot conclude that their appointments were lawful in the constitutional sense. The enquiry report relied upon by the petitioners, by which they were exonerated from allegations, also does not conclude the controversy. That report may show that the petitioners were not guilty of misconduct. If the charge-sheet alleged participation in malpractice and such charge failed, then naturally the petitioners gain benefit of that. But the effect of such exoneration must remain confined to the enquiry.

**21.** The issue whether a person committed misconduct while in service is different from the issue whether the appointment into service was made in accordance with law. A disciplinary enquiry examines conduct of employee. It may not adjudicate legality of recruitment process. Therefore, an exoneration in disciplinary proceedings does not regularise or validate an unsanctioned appointment. If sanctioned posts were absent, if advertisement was not issued, or if selection norms were bypassed, such defects are not cured because misconduct charges failed.

**22.** For this reason, the Labour Court was not bound to treat the enquiry report as answer to every issue raised before it. The Labour Court was required to consider the total circumstances, namely the nature of appointment, allegations, length of service,

termination order, and statutory protections under labour law. A court deciding industrial dispute must see the entire picture. Therefore, merely because the Labour Court did not accept the petitioners' contention, it cannot be said that it committed such illegality as would invite interference.

**23.** The judgment in *Ajaypal Singh* undoubtedly lays down that where an employer resorts to retrenchment, compliance with Section 25-F of the Industrial Disputes Act is mandatory. Notice pay, retrenchment compensation, and statutory compliance are conditions precedent. The employer cannot terminate a workman and thereafter attempt to justify breach by alleging that the appointment was contrary to Articles 14 and 16 of the Constitution. The same judgment holds that where the employer raises establishes that the appointment was irregular, unconstitutional the dispute may assume a different character.

**24.** The respondent has stated in termination order and also pleaded that the appointments were void, made without sanctioned posts. Here it arises from enquiries and allegations touching the recruitment process. In that view of matter, the petitioners cannot contend that the Labour Court was prohibited from examining the nature and source of appointment. Once such plea was raised termination order, enquiry into that issue became unavoidable. The Labour Court may be right or wrong in degree of appreciation, but jurisdiction to look into the matter cannot be denied.

25. The argument based on the doctrine of indoor management also does not carry the petitioners further. That doctrine protects outsiders dealing in good faith with a corporation by permitting certain presumptions regarding internal compliance. Even assuming the doctrine has persuasive value, its application in cases of public employment must remain minimum. Public posts are subject to constitutional mandates of fairness and expenditure from public funds. There can be no estoppel against law. If constitutional requirement mandates sanctioned posts, those requirements cannot be displaced by invoking private law presumptions. Where the record indicates absence of sanctioned posts or defects in procedure, an employee cannot claim right.

26. It is one thing to say that a workman should not be punished for every lapse of the employer. But it is another matter to say that an appointment suffering from constitutional infirmity must be perpetuated because the employee was unaware of the defect.

27. The grievance that nine similarly situated employees were retained in service also deserves scrutiny. If those employees were appointed through same process, performing similar duties, and yet spared without objective criteria, then the complaint of unequal treatment cannot be lightly dismissed. At the same time, equality clause cannot be converted into claim for continuation of illegality. If one set of employees was wrongly retained, another set cannot demand continuation solely on that basis. Article 14 is a positive concept. It ensures equality, not parity in error. Therefore, a mistaken benefit conferred on some persons does not create entitlement for others. The retention of some employees may

indicate inconsistent action by the employer. Yet it does not ignore the larger issue, namely whether the appointments themselves were made without proper sanction. Hence, while the petitioners' plea of victimization has some force and cannot be brushed aside, it is insufficient to compel reinstatement as a matter of right.

**28.** The submission that some other employees, stated to be similarly situated, were continued in service or had secured relief in other proceedings, cannot be accepted, having regard to principle laid down in *State of U.P. v. Neeraj Awasthi*, (2006) 1 SCC 667. The Supreme Court has made it clear that where appointments are made without following prescribed procedure, or where certain persons so appointed were regularised in earlier time, such past actions do not become legal pattern requiring repetition by Court. Earlier irregularity does not convert itself into enforceable right. If illegality has happened once, same cannot be directed to continue merely because parity is demanded. This principle gives answer to the argument of petitioners that because nine employees allegedly appointed through same process were continued, all remaining employees must also be restored in service. If retention of certain employees was contrary to rules, the same does not enlarge rights of others. At highest, it may call for scrutiny of those cases. It cannot become foundation for directing continuation of an admitted defect by judicial order. Even if some vacancies are said to be available, the Supreme Court has clarified that it remains within domain of employer authority to fill such posts in accordance with applicable rules and procedure. The Court cannot assume function of appointing authority, nor can it

compel absorption dehors recruitment process. Therefore, reinstatement in present matter cannot be claimed only because work was earlier taken from petitioners or because vacancies are alleged to exist somewhere in establishment.

**29.** The decision in *ONGC v. Krishan Gopal*, (2021) 18 SCC 707 gives assistance in resolving the present controversy. The Supreme Court there clarified that Labour Courts and Industrial Courts cannot issue directions of regularisation where such direction would offend Article 14 in matters of public employment. Courts cannot create sanctioned posts, nor can they validate appointments made outside constitutional framework merely because long service has been rendered. The same judgment also recognises that relief may be granted where unfair labour practice is established, especially where workmen are deliberately continued for years as temporary, casual, or daily wagers against available permanent work only to deprive them of lawful benefits. In such cases, the Court may intervene to cure exploitation. The present case does not squarely fall in that latter category. The petitioners were not shown to be temporaries retained for decades against permanent vacancies while management denied them benefits. Rather, the controversy begins at the threshold, namely that their appointments are alleged to be illegal and unsupported by sanctioned posts. If reinstatement with continuity of service is granted in such circumstances, it may indirectly validate an entry which is itself under legal cloud. Therefore, the principle stated in *ONGC v. Krishan Gopal* supports the conclusion that reinstatement and continuity of service could not have been granted in the

peculiar facts of the present case.

**30.** Though this Court has found no case made out for grant of reinstatement, continuity of service or full back wages, the question still survives regarding adequacy of compensation awarded by the Labour Court. The Labour Court has granted lump-sum amount of Rs.2,50,000/-. Such amount, in facts of present matter, appears on lower side. Therefore, this Court is required to consider whether limited interference on quantum is necessary.

**31.** It is true that where appointment itself is under legal defect, the Court should not grant relief which may indirectly validate irregular public employment. For that reason, reinstatement has been declined. However, once it is accepted that petitioners had in fact worked with respondent establishment for considerable period and their services were utilised by respondent, then denial of reasonable monetary recompense would also cause imbalance. Even where reinstatement is refused, compensation may become substitute depending on length of service, nature of termination, conduct of parties and circumstances of each case.

**32.** In present case, petitioners were continued in service for number of years. During such tenure, there is no material showing any complaint regarding day to day discharge of duties by petitioners. The record indicates that they had rendered service and were paid wages. Thus, petitioners were in employment for long duration. Such factor deserves consideration while assessing compensation. Another relevant aspect is that petitioners were subjected to suspension, disciplinary proceedings and uncertainty

for substantial time. Though enquiry appears to have exonerated them from misconduct, ultimately services came to be terminated.

**33.** The Court cannot ignore that controversy regarding appointments arose mainly from acts attributed to former management and administrative authorities. Petitioners at highest, became beneficiaries of a process found irregular. Therefore, while they cannot claim vested right to post, they equally cannot be treated as main wrongdoers.

**34.** Further, some material is placed showing that certain similarly situated employees were continued or granted relief elsewhere. Even if that circumstance does not create enforceable right of reinstatement, it does show uneven consequences. Where one set continues and another set loses livelihood, modest enhancement in compensation becomes justified.

**35.** The amount of Rs.2,50,000/- awarded by Labour Court does not appear proportionate when seen against years of service rendered, wages last drawn, lapse of time since termination, and rising cost of living. Compensation must be realistic. Balance has to be maintained between irregularity of appointment and service rendered with hardship suffered. Therefore, moderate enhancement would meet ends of justice.

**36.** Considering totality of circumstances, this Court is of opinion that compensation requires enhancement from Rs.2,50,000/- to Rs.5,00,000/- for each petitioner. Accordingly, while maintaining remaining part of Award, compensation granted by Labour Court stands modified and enhanced to Rs.5,00,000/- payable to each



petitioner. The enhanced amount shall be paid within period of twelve weeks from date of this order, failing which it shall carry interest at rate of 6% per annum from expiry of said period till realization.

**37.** Based on above discussion and for reasons recorded hereinabove, the following order is passed:

(i) Writ Petition Nos. 12706 of 2024, 12714 of 2024, 12709 of 2024, 12712 of 2024 and Writ Petition No. 1161 of 2026 are partly allowed;

(ii) The judgment and Award dated 28 December 2023 passed by the Labour Court stands modified only to the extent of quantum of compensation granted to the concerned petitioners in the aforesaid writ petitions;

(iii) The compensation awarded by the Labour Court to each of the petitioners in Writ Petition Nos. 12706 of 2024, 12714 of 2024, 12709 of 2024, 12712 of 2024 and Writ Petition No. 1161 of 2026 is enhanced from Rs.2,50,000/- and Rs.2,00,000/- to Rs.5,00,000/- each;

(iv) If any amount out of the compensation already awarded has been paid and received, the same shall be given due adjustment, and only the balance enhanced amount shall remain payable;

(v) The respondent employer shall pay the balance amount of compensation to the respective petitioners within a period of twelve weeks from the date of this order, failing which the

unpaid amount shall carry interest at the rate of 6% per annum from expiry of the said period till realization;

(vi) Save and except the aforesaid modification regarding enhancement of compensation, the remaining part of the judgment and Award dated 28 December 2023 is maintained;

(vii) Writ Petition Nos. 3205 of 2025, 3206 of 2025, 3207 of 2025, 2331 of 2025 and 3204 of 2025, filed by the employer challenging grant of compensation, stand dismissed;

(viii) Rule is made absolute in the aforesaid terms in Writ Petition Nos. 12706 of 2024, 12714 of 2024, 12709 of 2024, 12712 of 2024 and 1161 of 2026. Rule stands discharged in Writ Petition Nos. 3205 of 2025, 3206 of 2025, 3207 of 2025, 2331 of 2025 and 3204 of 2025;

(ix) There shall be no order as to costs.

**(AMIT BORKAR, J.)**