

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8608 OF 2025**

State of Maharashtra through the Dean, B.J.
Medical College .. Petitioner
Versus
Rekha Vasant Choure .. Respondent

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- Mr. Aditya R. Deolekar, AGP for Petitioner.
 - None present for Respondent.
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**CORAM : MILIND N. JADHAV, J.
DATE : JULY 31, 2025.**

P.C.:

1. The present Writ Petition assails judgement and order dated 08.06.2023 passed by the Industrial Court, Pune in Complaint (ULP) No.208 of 2017 filed by Respondent - employee under Section 28 read with Item Nos. 5, 6 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short '**MRTU and PULP Act**') which came to be allowed. The impugned order is appended at page No.52 of the Petition.

2. The facts germane to the present case are as follows:-

2.1. In the year 1982, Respondent was employed as Badli/Kaamgar by Petitioner – College. From May 1997 till 31.05.2017 Respondent worked intermittently in various temporary posts. Subsequently, Respondent's services were discontinued upon her attaining the age of superannuation.

2.2. During the course of her employment, a trade union named Sarva Mazdoor Sangh, representing Respondent and similarly situated workers filed Complaint (ULP) No. 150 of 1999 before the Industrial Court, Pune seeking permanency for Badli workers. By order dated 26.08.2002, the Industrial Court granted permanency to one employee and directed the Petitioner to prepare and maintain a seniority list of Badli/Kaamgar workers for future consideration.

2.3. Thereafter, the Government issued Government Resolution No. 1 dated 23.07.2015 whereby it decided to accord permanency to 774 workers who had completed 10 years of continuous service as on 31.03.2007 but subject to condition that the employee must have completed 240 days of work in each financial year.

2.4. Subsequently, Government Resolution No. 2 dated 07.12.2015 recorded that out of the 774 workers identified under GR No. 1, only 626 were found eligible and were granted permanency as Petitioner had forwarded only six names of eligible employees for regularization under the said GRs, and the name of Respondent was not included in the list of eligible workers.

2.5. Respondent's name was placed at Serial No. 10 in the seniority list maintained by the Petitioner. It is Petitioner's case that only the first six employees were granted permanency as per the eligibility under the said Government Resolutions as she had not

completed 10 years of continuous service as required. Also her appointments were on temporary basis, for limited durations, and against temporary vacancy. She was not appointed to the same post consistently in each tenure and was never appointed against any permanent sanctioned post.

2.6. In April 2017, Respondent addressed a letter to Petitioners seeking retirement and pensionary benefits. However, the said letter was not acted upon by Petitioners.

2.7. Being aggrieved, Respondent filed a Complaint (ULP) No.208 of 2017 before the Industrial Court, Pune seeking declaration as a permanent employee and be granted retirement and pensionary benefits. By order dated 08.06.2023 Industrial Court allowed the said complaint.

2.8. Being aggrieved Petitioner filed the present Writ Petition.

3. Mr. Deolekar, learned AGP appearing for Petitioner - College would submit that the Industrial Court has erred in allowing the Complaint filed by Respondent. He would submit that Respondent was never appointed against any permanent or sanctioned post and all her appointments made from time to time were purely on temporary basis, as and when required for limited stints.

3.1. He would submit that Respondent did not fulfill the

eligibility criteria laid down in Government Resolution No.1 dated 23.07.2015 which mandated that a worker must have completed 10 years of continuous service as on 31.03.2007 with 240 days of work in each financial year.

3.2. He would submit that pursuant to Government Resolution No. 2 dated 07.12.2015 which reviewed the implementation of Government Resolution No. 1, only 626 employees out of 774 were found eligible for regularization. He would submit that Petitioner had forwarded names of only six employees who met the criteria and Respondent's name was not included as it appeared at Serial No. 10 in the seniority list prepared earlier. He would submit that employees working on temporary basis for a long period of time do not automatically entitle them to seek permanency. He would submit that Petitioner exercised discretion in forwarding names strictly in accordance with the Government Resolutions criteria.

3.3. He would submit that the Industrial Court erred in granting relief of permanency and pensionary benefits without considering that Respondent's service was intermittent and not in the same post or continuously. Hence he would submit that the impugned order be quashed and set aside and Writ Petition be allowed.

4. As none appears for Respondent - employee therefore without awaiting her presence the matter is being finally decided.

5. I have heard Mr. Deolekar, learned AGP for Petitioner - College and perused the record of the case. Submissions made by Mr. Deolekar have received due consideration of the Court.

6. On perusal of the material placed on record, it is seen that Petitioner had employed Respondent as a Badli worker till her retirement. It is seen that she rendered consistent and continuous service for almost two decades from May 1997 till 31.05.2017 which was within the criteria stated under the Government Resolutions i.e. completion of 10 years of minimum tenure of service and completion of 240 days of work in each calendar year.

7. It is seen that Petitioner failed to establish that Respondent was not in continuous service or that her appointments were casual, irregular, or against different posts. It is seen that no documentary evidence has been placed on record to rebut the Respondent's claim of long-term service except the said claim made on the basis of bald pleadings.

8. It is surprising to see that documents filed by Respondent specifically at Exhibit U-21 includes a letter dated 25.07.2016 which was issued by the Petitioner, which clearly reflects that the name of Respondent was recommended for grant of permanency in service. However she was infact denied the benefit despite having met with the twin conditions in the Government Resolution. Discrimination in the

present case is writ large on the face of record when other similarly placed workers were all given the benefit of permanency as per the Seniority list prepared by the Petitioners.

9. It is significant to note that while other similarly placed employees were granted permanency under the said Government Resolutions, Respondent was arbitrarily excluded without any justification or reason. Petitioner's selective implementation of the Government Resolutions is evident and it is clearly arbitrary the present case. It is settled law that mere description of an appointment as temporary does not override the fact that Respondent worked for a continuous period of 20 years, her name being recommended in the seniority list which in turn collectively indicate denial of permanency to her which clearly amounts to unfair labour practice under the said Act.

10. In view of the aforesaid observations and findings which *prima facie* emanate from the record, I am of the opinion that the Industrial Court has rightly allowed the Complaint (ULP) No.208 of 2017 by giving cogent and well-reasoned findings which do not call for any interference by this Court. The order dated 08.06.2023 is upheld and confirmed. Resultantly, the Writ Petition fails.

11. Since the Respondent is past her superannuation age, the Registrar of the Industrial Court is directed by this Court to apprise the

Respondent by calling her and informing her about the passing of this order. Copy of this order shall be apprised to the Registrar of the Industrial Court by the Petitioner before me. The Petitioner is directed to compute and calculate all benefit of seniority, pay scale, bonus etc. as applicable within a period of two weeks from the date of uploading of this order and pay the same to the Respondent within a further period of one week thereafter positively.

12. The Secretary in the Health Department and Department of Higher and Technical Education of the Government of Maharashtra shall both ensure that this order is complied with and the concerned Department shall make an appropriate Report to that effect to this Court through the learned Government Pleader for Compliance.

13. Learned AGP appearing in the matter shall write to the above two Secretaries to intimate them about this order and its compliance. If the aforesaid amounts of arrears payable to the Respondent are not paid to her as directed within the timeline delineated hereinabove, then the Petitioner and the State Government of Maharashtra shall be liable to pay interest on the entire arrears amount at the rate of 9% per annum until payment.

14. Writ Petition is dismissed and disposed.

[MILIND N. JADHAV, J.]