

**BEFORE SMT. A. C. RAUT, MEMBER,
INDUSTRIAL COURT, MAHARASHTRA MUMBAI**

**COMPLAINT (ULP) No. 56 of 2026
(CNR No. MH1C01-000157-2026)**

Shri. Rahul Ramesh Khaire. ... **Complainant**

Versus

Municipal Corporation of Gr. Mumbai ... **Respondents**

**:- Order Below Exh. U-2 :-
(Delivered on 17.03.2026)**

1. This application for interim relief is filed by the complainant, prayed pending and hearing final disposal of the complaint, respondents be directed not to revert the complainant from the post of Assistant Nuisance Detectors to the post of Motor Loader till disposal of main complaint.

2. It is the case of the complainant that, the complainant is a employee employed by the respondent corporation and performing duties of Nuisance Detector working as Assistant Nuisance Detector. The Respondent no. 1 is the Corporation, the respondent no. 2 is the Chief Executive, the Respondent no. 3 is the Additional Municipal Commissioner (City), the respondent no. 4 is Head of the

department and the respondent no. 5 is the Assistant Head Supervisor. The Corporation has a department known as “Solid Waste Management” which looks after collection and transportation of garbage to various dumping grounds and it employs sweepers, Assistant Nuisance Detectors, Nuisance Detectors and Junior Over Seers, etc. The respondent Corporation issued Circular for appointment of Assistant Nuisance Detector in P/North Ward of the respondent Corporation. The complainant applied for the post on 17.09.2022 and selected and appointed as Assistant Nuisance Detector on 27.09.2022.

3. It is further case of the complainant that he was appointed from 11.08.2011 as Motor Loader under P. T. Case and is working on the said post continuously. He was promoted as Assistant Nuisance Detector from 27.09.2022. It is his further case that Assistant Nuisance Detector perform the duties of the Nuisance Detector for years together. Therefore, the complainant is entitled to be appointed/promoted to the post of Nuisance Detector as he was selected to the post but designated as Assistant Nuisance Detector. He has been assigned the duties and responsibilities of Nuisance Detector against the vacant permanent post of Nuisance Detector. The complainant is continuously working as Assistant

Nuisance Detector since his appointment and continuously doing the work of Nuisance Detector as post of Nuisance Detectors are vacant since his appointment.

4. It is further case of the complainant that respondents have orally informed the complainant that they have decided to revert the complainant from Assistant Nuisance Detectors to his original post of Motor Loader, which is according to the complainant against the service conditions. It is his further case that the Model Standing Orders 4-C, badli and temporary employees continuously working for 240 days period are required to be made permanent in the said post. The complainant has been working as Assistant Nuisance Detector for more than 3 years, and therefore he is entitled for regularization, but, the respondents without giving any opportunity or issuing any show cause unilaterally taken decision to revert the complainant as Motor Loader, which is arbitrary, illegal and unjust under Item 9 of Schedule-IV of the MRTU & PULP Act, 1971. According to the complainant, he has prima facie case and if his application is not allowed, he would suffer irreparable loss. Therefore, he prayed to allow the application.

5. Respondents have objected the application by filing

reply at Exh. C-2. According to them, the complaint is bad in law and not maintainable. It is submitted that the issue involved in the Circular dated 10.04.2023 is collective nature in Corporation, therefore the complainant as an individual workman has no locus standi to file present complaint. The present complaint is barred by the principle of res-judicata because other union already was filed earlier three complaint and same are pending before this Court. Further, the present complaint is barred by Section 59 of the MRTU & PULP Act, 1971.

6. It is their further case that during the period of Covid-19, since the work of detecting the nuisance created in the city of Mumbai, it was difficult to manage in the absence of the Nuisance Detector. The complainant applied on 17.02.2022 and the ward office temporary assigned the work of Assistant Nuisance Detector. In the said order dated 27.09.2022, it is specific mention that earlier post and the pay-scale will not be changed and they are not liable for any additional payment for work assigned to them i.e. Assistant Nuisance Detectors and the order will be continued till further orders. The complainant has accepted the terms, and therefore, he is not entitled for any prayers made by him.

7. It is their further case that the post of Jr. Supervisor as SWM is not promotional post, but it has to be filled up by appointing new recruitment. Therefore, complainant is not entitled to the said post. They have further denied that they have committed any unfair labour practices and they further submitted that there is no prima facie case in favour of the complainant and according to them, complainant is not entitled for the relief claimed by them.

8. Heard both sides. Gone through the record. In view of the rival submissions of the parties, following points arise for my determination. I have recorded my findings thereon for the reasons given below -

<u>POINTS</u>	<u>FINDINGS</u>
1. Whether the Complainant has made out :- prima-facie case of unfair labour practice?	In the Affirmative.
2. Whether balance of convenience is in :- favour of the Complainant?	In the Affirmative.
3. Whether irreparable loss would cause to :- the complainant, if application is rejected?	In the Affirmative.

4. Whether the Complainant is entitled for :- In the relief sought Affirmative.

:- R E A S O N S :-

Arguments :-

9. Ld. Advocate for the complainant submitted that complainant is selected as Assistant Nuisance Detector. She further submitted that in fact, there is no post such as Assistant Nuisance Detector. The post of Nuisance Detector has not been filled up by the Corporation since long and the complainant was working as Assistant Nuisance Detectors, but in fact, complainant is performing the duties of Nuisance Detectors for years together. Now the respondents have threatened him to revert them to the post of Motor Loader and they have stopped giving the work assigned to him. Therefore, the complainant has apprehension that they will be reverted back to the post of Motor Loader inspite of working for more than 240 days since the date of their appointment on the post of Assistant Nuisance Detector. Therefore, she submitted that the complainant has prima facie case, balance of convenience also lies in his favour, if he is reverted to his original post of Motor Loader, then he will suffer irreparable loss and the complaint will become infructuous. Therefore, she prayed to allow the application.

10. As against this, Ld. Advocate for respondents submitted that the complainant was never appointed as Assistant Nuisance Detector and his appointment is on the clear vacant post of Motor Loader. She further submitted that considering the urgency in the Covid-19 period, the complainant was given the work of Assistant Nuisance Detector, but his appointment with the clear directions that he will work only until further orders. She further submitted that the complainant has accepted his appointment order of Assistant Nuisance Detector. Therefore, now he cannot claim the post of Nuisance Detector. She further submitted that in the present complaint, the demand raised by the complainant is of the nature of collective dispute, therefore, the complainant has no locus standi to file the present complaint. She further submitted that the complainant has failed to make out the prima facie case, and therefore, not entitled to the relief in the interim relief application, and therefore, she prayed to reject the application.

As to Points No. 1 to 3 :-

11. It is the case of the complainant that the Corporation issued a Circular for the appointment of Assistant Nuisance Detector in the P/North Ward of the respondent Corporation. Complainant applied for the post on 17.09.2022

and selected and appointed as Assistant Nuisance Detector from 27.09.2022. Since then, the complainant has been working on the post of Assistant Nuisance Detector.

12. It is further the case of the complainant that he was appointed as Assistant Nuisance Detector and has been performing the duties of Assistant Nuisance Detector for several years. In support of his case, the complainant has placed on record a copy of the Office Order dated 27.09.2022, by which the complainant was appointed as Assistant Nuisance Detector, which show that the complainant was working as Assistant Nuisance Detector. In fact, this fact has not been denied by the respondents in their reply to the application.

13. Per contra, it is the case of the respondents that during the period of Covid-19, the work of detecting nuisance created in the city of Mumbai by people was difficult to manage in the absence of sufficient Nuisance Detectors. Therefore, as per application made by the complainant, the complainant was temporarily assigned the work of Assistant Nuisance Detector by orders dated 27.09.2022. It is further their case that the work was assigned only temporarily, and it was clearly mentioned that his original post and pay scale would not be changed, that he would not be entitled to any additional payment for the work assigned to him, and that the

said arrangement would continue until further orders. It is further contended that the complainant accepted the said terms and conditions, and therefore he is not entitled to claim the post of Nuisance Detector or Assistant Nuisance Detector.

14. From the above contentions raised by the complainant and the respondents, there remains no doubt that the the complainant has been working as Assistant Nuisance Detectors since 27.09.2022 respectively, and that he has been performing the duties of Assistant Nuisance Detector. Thus, admittedly he has completed the period of 240 days.

15. It is the case of the complainant that, as per Model Standing Order 4-C, badli and temporary employees who have been continuously employed for more than 240 days are required to be made permanent on the said post. As already discussed, the respondents have not denied that the complainant have continuously worked for more than 240 days on the post of Assistant Nuisance Detector. It is also admitted that 90 posts of Nuisance Detectors are vacant.

16. Whether the complainant is entitled to claim for permanent appointment to the post of Nuisance Detector will be decided on the merits of the case. So, the respondents have alleged that there are many complaint against the

complainant. The said point also will be decided on the merits of the case. However, it is not disputed by the respondents that they have now directed the complainant to work on his original post of Motor Loader by reverting him from the post of Assistant Nuisance Detector. That issue also needs to be decided on the merits of the case. However, at this stage, the fact remains that the complainant has worked continuously for more than 240 days as Assistant Nuisance Detectors and that the respondents are attempting to revert them to the post of Motor Loader.

17. The respondents have submitted that the issue in the complaint is of a collective nature and complainant cannot file the complaint individually and therefore complainant has no locus standi to file the present complaint. The complainant has filed the present complaint in the individual capacity. So also, whether the demand raised by the complainant is of a collective or not, will be decided after recording the evidence on merits and not at this prima facie stage.

19. Therefore, I am of the view that, prima facie, the complainant has proved unfair labour practices against the respondents. The complainant has further established that the balance of convenience lies in favour of the complainant and that, if the complainant is not protected, he would suffer

irreparable loss. Therefore, I answer the points accordingly and proceed to pass the following order.

-: O r d e r :-

1. Interim Application Exh. U-2 is hereby allowed.
2. It is hereby declared that the respondents have *prima facie* engaged in unfair labour practices against the complainant. The respondents are temporarily restrained from such practices pending the final disposal of the complaint.
3. Respondents are hereby directed to not to revert the complainant from the post of Assistant Nuisance Detector to the post of Motor Loader, till final disposal of the complaint.

Place :- Mumbai

Date :- 17.03.2026.

SPC/-

(Smt. A. C. Raut),
Member,

Industrial Court, Mumbai