

MHIC100000842017



Presented on : 12-07-2017

Registered on : 12-07-2017

Decided on : 17.03.2026

Duration : 8Y 8M 5D

IN THE INDUSTRIAL COURT AT SANGLI
Presided Over by SHRI. F. M. PATHAN

Complaint (ULP) No. 25 of 2017

Sushila Vitthal Jadhav
Posewadi, Tal. Khanapur
Dist. Sangli

... Complainant

VERSUS

Range Forest Officer
Vita, Tal. Khanapur
Dist. Sangli

... Respondent

Appearances : Mr. B.R. Mulani, Adv. for the Complainant.
Mr. M.H. Gramopadhye, Adv. for the Respondent.

CORAM : Mr. F.M. Pathan, Member.

J U D G M E N T
(Dated : 17.03.2026)

This is a complaint under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 [hereinafter referred as "MRTU & PULP Act"], wherein the complainant alleged that respondent has engaged in unfair labour practice under items 9 and 10 of Schedule IV of said Act by not implementing the Judgment and order in Complaint (ULP) No. 462/1988 and Reference (IDA) No. 24/1996. She also sought consequential reliefs.

Brief facts :

2. **Complainant's case** : Since 15.7.1980, she was in the employment of the respondent as a Nursery workman. She was working on the job of permanent nature, but the respondent had not made her permanent. Therefore, she filed Complaint (ULP) No. 462/1988 before Industrial Court, Kolhapur, which came to be allowed vide Judgment and order dated 27.4.1994 directing the respondent to confirm her in service after completion of three years from her first appointment. Accordingly, she became entitled for confirmation from 15.7.1983. The respondent challenged the decision in said complaint before the Hon'ble High Court, but could not succeed.

3. Then, instead of confirming her in the service, as directed, the respondent dismissed her on 16.4.1986. Against such dismissal, she raised industrial dispute which resulted in proceeding bearing Reference (IDA) NO. 24/1996. The learned Labour Court allowed said reference on 05.12.2009 directing the respondent to reinstate her with 25% back wages. The respondent challenged said award before Hon'ble High Court vide Writ Petition No.8555 of 2013. In that Writ Petition, the respondent was directed to take proper decision on the proposal to make complainant permanent. But the respondent did nothing. When complainant approached the respondent, the respondent gave her work on daily wage basis as a watchman, but did not comply orders in Complaint (ULP) No. 462/1988 and also Reference (IDA) No. 24/1996. The complainant herself and through union requested the respondent to implement such orders. The respondent replied that the proposal was sent and after sanction thereof, orders would be implemented. In-spite of such assurance the respondent failed to implement the same.

4. Since the date of Judgments and orders in Complaint (ULP) No.462/1988 and Reference (IDA) No.24/1996, the period of 23 and 8 years respectively has lapsed, but they are not implemented. On the contrary, from February 2017 till date the respondent stopped the payment of her wages. Accordingly, the respondent engaged in unfair labour practices under items 9 and 10 of Schedule IV of the MRTU & PULP Act by not implementing aforementioned orders.

With these contentions, complainant prayed to declare such unfair labour practices on the part of the respondent and to direct the respondent to implement such Judgment & order and award.

5. **Respondent's case** : The complainant was appointed temporarily / seasonally. She was assigned work seasonally as and when it was available. She was given seasonal work under the Government sanctioned scheme. Accordingly, her work came to an end after the completion of said scheme. She never completed 240 days of service in any year. When she was given seasonal / temporary work at another place, she left the work on her own accord, as that place was away from her house. Hence, there is no question of making her permanent. As such, there is no question of respondent engaging in alleged unfair labour practice. The complainant left work from the year 2001 on her own accord. She filed this complaint belatedly which is barred by limitation. Further, this Industrial Court has no jurisdiction to implement the award passed by the Labour Court in Reference (IDA) No. 24/1996, as it is for the Labour Court to implement that award.

With these contentions, the respondent denied the allegation of unfair labour practice and prayed to reject the

complaint.

6. The learned predecessor of this Court framed issues at Exh. O-3. They are reproduced as under alongwith my findings for reasons to follow :

	ISSUES	FINDINGS
1.	Does the complainant proves that she has completed more than 240 days continuous service in a calender year ?	Redundant issue.
2.	Whether the complainant proves that the respondent has engaged in unfair labour practices under items 5, 6, 9 and 10 of Schedule IV of the MRTU & PULP Act, 1971 as alleged ?	Unfair labour practice under items 9 & 10 of Schedule IV of the MRTU & PULP Act, is proved.
3.	Whether the complainant is entitled for the reliefs as prayed for ?	Partly in the affirmative.
4.	What order ?	As per final order.

7. In order to substantiate her contentions, the complainant produced certain documents with list Exhs. U-4 and U-21. She closed her evidence vide purshis Exh. U-19.

8. In rebuttal, the respondent examined Range Forest Officer, Kupwad by filing his affidavit at Exh. C-11. During his cross examination the documents produced by the complainant with list Exh. U-4/4 and 6 came to be marked as Exh. U-22 and U-23. Then, the respondent closed evidence by purshis Exh. C-13.

9. Heard learned Advocates for both the parties. Perused the

written notes of arguments of the respondent and material on record.

REASONS

As to Issue No. 1:

10. This issue pertains to the proof as to whether complainant completed more than 240 days continuous service in a calendar year. It appears that in written statement the respondent raised contention that complainant had not completed 240 days continuous service. Here it is necessary to state that the present complaint is filed by the complainant alleging failure of respondent to implement the Judgments and orders in Complaint (ULP) No. 462/1988 and Reference (IDA) No. 24/1996. She invoked the item 9 and 10 of Schedule IV of the MRTU & PULP Act. While deciding the complaint of such unfair labour practice under item 9 and 10, this Court is required to see whether there is any settlement, agreement, or award between the parties and whether the employer failed to implement the same.

11. In present complaint, the respondent did not dispute the verdicts in aforementioned 2 proceedings. Therefore, now this Court is required to see whether such verdicts are implemented or not ? and if not implemented, then as to whether the respondent is guilty of alleged unfair labour practice ? In this complaint, the jurisdiction of this Court is confined to that aspect only. The question as to whether the complainant completed 240 days continuous service in a calendar year cannot be agitated in this proceeding, as it was the subject matter of aforementioned 2 previous proceedings.

12. From the copy of award dated 5.12.2009 in Reference (IDA) No. 24/1996, it appears that the learned Labour Court, Sangli

considered the verdict in Complaint (ULP) No.462/1988 and observed that the complainant was granted permanency by said verdict. Then, on the merit of the subject matter of said reference, the learned Labour Court held that instead of conferring permanency benefits on the complainant, the respondent terminated her services. Accordingly, the learned Labour Court granted her reinstatement with continuity of service and 25% back wages.

13. The respondent has not disputed the directions given in these both proceedings. Since, by way of Complaint (ULP) No. 462/1988 the complainant was granted permanency, it implies that the aspect of completion of 240 days continuous service by the complainant was considered in that complaint. Likewise, since she was granted reinstatement with continuity of service in subsequent litigation i.e. Reference(IDA) No. 24/1996, it again got fortified that she completed 240 days service in year preceding her termination. Therefore, now in this complaint respondent cannot raise any contention in that regard. Besides that as stated above, this Court while dealing with complaint under item 9 of Schedule IV cannot travel beyond binding award, settlement or agreement and arrive at different conclusion, because the jurisdiction is confined to see the compliance of such award, settlement or agreement. Therefore, this Issue No.1 cannot be subject matter of this complaint as it is already decided. Now, it ceased to survive. Accordingly, it is answered.

As to Issue No. 2 :

14. Before proceeding to record the reasons to this issue, it is necessary to note that it is not the allegation of the complainant that the respondent engaged in unfair labour practice under items 5 and 6 of Schedule IV of MRTU & PULP Act. It is her only allegation that

the respondent engaged in unfair labour practice under items 9 and 10 of that Schedule. She has not invoked the items 5 and 6. However, in this issue, the item 5 and 6 are also included, which are not in the pleadings of any parties. Therefore, before recording reasons to this issue, it is required to be corrected by deleting the items which are not invoked. Since, the item 9 and 10 only are invoked, and therefore, this issue stands corrected as per the pleadings.

15. The item 9 and 10 of Schedule IV of the MRTU & PULP Act as invoked by the complainant deal with unfair labour practice on the part of the employer by not implementing award, settlement or agreement and to indulge in act of force or violence. The allegations of the complainant in that regard are required to be appreciated in the light of material on record.

16. From the pleadings and material on record, undisputed facts emerged that complainant filed Complaint (ULP) No. 462/1988 before Industrial Court, Kolhapur. It was allowed vide Judgment and order dated 27.4.1994 directing the respondent to confirm complainant in service after completion of three years from her initial appointment. Being aggrieved thereby, the respondent approached Hon'ble High Court, but could not succeed. Then, the complainant raised industrial dispute vide Reference (IDA) No. 24/1996 alleging that instead of confirming her in service as directed in Complaint (ULP) No. 462/1988, respondent dismissed her w.e.f. 16.4.1996. The learned Labour Court, Sangli vide award dated 5.12.2009 granted reinstatement to the complainant with continuity of service and 25% back wages. The copy of said award is at Exh. U-4/1. Being aggrieved thereby, the respondent filed Writ Petition

No.2656 of 2013 before Hon'ble Bombay High Court. The various orders passed in that Writ Petition are produced by the complainant with list Exh. U-21. The Hon'ble High Court vide order dated 8.7.2013, observed that the proposal to comply the order in aforementioned proceedings is pending for more than 15 years before the Government of Maharashtra and then directed to the petitioner i.e. present respondent to take decision on said proposal within eight weeks from the date of said order. The petitioner was also directed to deposit back wages as awarded in Reference (IDA) 24/1996. From the order dated 28.10.2013 in said Writ Petition, it appears that present respondent deposited an amount of Rs.54,869/- towards such back wages as directed. The copy of case details of the Writ Petition No. 2656 of 2013 obtained from the website of the Hon'ble High Court, Bombay is also annexed by the complainant at Serial No.6 with list Exh. U-21. The status of that Writ Petition is shown as disposed on 18.4.2017 and type of disposal is shown as dismissed.

17. During cross examination at Exh. C-11, the witness of the respondent in para No. 9 admitted that the Writ Petition challenging the order dated 27.4.1994 passed by Industrial Court, Kolhapur in complaint filed by the complainant was rejected by Hon'ble Bombay High Court. In para No. 10, he further admitted that the Writ Petition challenging the award dated 5.12.2009 in Reference (IDA) No. 24/1996 was dismissed on 18.4.2017. He also admitted that the proposal for granting permanency to the complainant is pending with the Government. He also admitted that decision rendered in the complaint filed by the complainant is still not implemented. He also admitted that the Forest Nursery in Posewadi Taluka Khanapur is still functioning.

18. From above undisputed and admitted facts, it is made out that the Judgment and order dated 27.4.1994 passed by Industrial Court, Kolhapur in Complaint (ULP) No. 462/1988 granting permanency to the complainant was challenged by the respondent before Hon'ble Bombay High Court, but could not succeed. Despite that said Judgment and order is not implemented till this date. Likewise, the award dated 5.12.2009 in Reference (IDA) No. 24/1996 passed by the learned Labour Court, Sangli in favour of the complainant is not fully implemented. The direction as to the grant of 25% back wages is only complied during the pendency of Writ Petition No. 2656 of 2013. Other directions regarding reinstatement of the complainant with continuity of service, are still not implemented.

19. The defence of the respondent raised in the written statement is that complainant did not work for 240 days continuously in a year; that she was appointed temporarily and seasonally for particular Government sanctioned scheme; that her work came to an end after completion of that scheme and that she left the work on her own accord, when she was given such seasonal or temporary work at place away from her house. Therefore, according to the respondent, there is no question of making her permanent.

20. Above all contentions of respondent in written statement, cannot be subject matter of this complaint. These contentions ought to have been raised and established in previous 2 proceedings. From the award in Reference (IDA) No. 24/1996, it appears that the learned Labour Court in para No.16 has discussed the above defence

of the respondent and discarded the same. The Writ Petition challenging the said award is dismissed. It is not the case of the respondent that now any further proceeding challenging said award is pending. Hence, the findings of the learned Labour Court in said award attained finality. In this complaint, this Court is concerned with the outcome of said 2 previous proceedings. This Court cannot travel beyond the Judgment and order in those proceedings. Therefore, above contentions cannot be agitated in this complaint and likewise, this Court cannot consider the same.

21. One more defence is taken by the respondent that the award in Reference (IDA) No. 24/1996 was passed on 5.12.2009, but the complainant filed this complaint belatedly and hence, it is time barred. This contention is not sustainable. It is matter of record that the complainant filed Complaint (ULP) No. 462/1988 which came to be allowed on 27.4.1994. Then, instead of conferring permanency on her, the respondent terminated her services w.e.f. 16.4.1996 as held in Reference (IDA) No. 24/1996. The award in said reference came to be passed on 5.12.2009. The respondent challenged said award by filing Writ Petition No. 2656 of 2013. Said Writ Petition came to be dismissed on 18.4.2017. The present complaint is filed on 14.6.2017. It appears that during the period from 27.4.1994 till 18.4.2017, the litigation were going on between the parties. After the disposal of the Writ Petition filed by the respondent, the complainant filed this complaint. Since, in the meanwhile litigation were pending and since complainant was prosecuting the same, she cannot be faulted in filing this complaint in the year 2017.

22. Further, it appears that the complainant was approaching the respondent by sending letters herself or through union. Such

letters are at Exh. U-4/2 to 6 and also at Exh. U-21/7 and 8. It is not the case that the complainant was idle in the meanwhile. Hence, above defence cannot be considered. In such attending facts and circumstances, it cannot be said that present complaint is filed belatedly and it is barred by limitation.

23. It is next contention of the respondent that this Court has no jurisdiction to implement the award passed by the learned Labour Court in Reference (IDA) NO. 24/1996 because it is for the learned Labour Court to decide how to implement that award. This contention is misconceived. As stated in foregoing para No.15 of this Judgment, the failure of employer to implement any award, settlement or agreement and to indulge in act of force or violence is unfair labour practice as contemplated under item 9 and 10 of Schedule IV of the MRTU & PULP Act. As per section 5 of said Act, it is the duty of the Industrial Court to decide complaints relating to all unfair labour practices except unfair labour practices falling under item 1 of Schedule IV of said Act. In this complaint, the complainant alleged the failure of the respondent to implement the Judgment and order in Complaint (ULP) No. 462/1988 and Award in Reference (IDA) No. 24/1996. Since said Judgment & order and award are binding and amounting to award under item 9 of Schedule IV of the Act, it is the duty of this Court to decide the allegation of the complainant regarding failure to implement the same. Therefore, the above defence of the respondent is misconceived and deserves to be rejected.

24. It appears to be the main defence of the respondent that the proposal to comply the aforementioned Judgment & order and award was sent to the concerned department of the Government and

it is for that department to take final decision on that proposal. The respondent has pursued that proposal time and again and hence, there is no unfair labour practice on his part.

25. Above defence is also unsustainable. There is no dispute that the respondent forwarded the proposal to the concerned Government department. During the course of argument, the learned Advocate for the respondent produced the copies of letters correspondence with the concerned department regarding the said proposal. It is also undisputed that till this date there is no decision on said proposal. Since from the date of aforementioned Judgment & order and award the period of more than 32 and 15 years respectively has lapsed. Despite such inordinate period, complainant got no fruit of litigation. It appears that in the year 1980 the present respondent had engaged the complainant. In Complaint (ULP) No. 462/1988, present respondent was arrayed as party respondent and he was directed to grant her permanency. Then again in Reference (IDA) No. 24/1996, present respondent was arrayed as sole First Party No.1. The learned Labour Court vide Award dated 5.12.2009, directed the present respondent to reinstate the complainant with continuity of service and 25% back wages. Thus, since beginning, the present respondent is the authority to whom the directions are given. From the oral and documentary evidence of the respondent, it appears that he forwarded the proposal as regards the direction in aforementioned proceedings to the superior and also persuaded the same. Despite the direction of the Hon'ble High Court vide order dated 8.7.2013 in Writ Petition No. 2656 of 2013, no decision was taken on such proposal within stipulated eight weeks. Since the respondent is directed to comply the orders in aforementioned proceedings, he ought to have taken prompt steps to get the

directions complied.

26. Here it is worth to note that from the letter dated 21.4.2014 addressed to the Secretary of Van Kamgar Sanghatana by the Divisional Forest Officer, Sangli, which is at Exh. U-4/1, it appears that about 127 forest workers including the complainant filed cases before Industrial Court, Kolhapur. By way of Judgment and order dated 27.4.1994, about 74 complaints were rejected and 53 were allowed whereby the respondent was directed to grant permanency to them. From the contents of said letter itself, it is made out that 40 out of 53 forest workers, whose complaints were allowed were made permanent and also their arrears were paid. However, remaining forest workers like the complainant are not made permanent. No evidence is brought on record to show as to why the complainant is given different treatment as compared to other 40 workers who were made permanent. Further, despite the dismissal of the Writ Petition challenging the award in Reference (IDA) No. 24/1996, the respondent has not reinstated the complainant.

27. As stated above now more than 32 and 15 years have lapsed from the respective orders. Therefore, the respondent cannot be justified in taking stand that he forwarded the proposal and it is pending. By forwarding the proposal which yet to be approved, the present respondent cannot get himself absolved. Keeping such proposal pending for such huge period is amounting to failure to implement the Judgment & order and award. Hence, above contention can not be considered.

28. In written notes of arguments, the learned Advocate for

the respondent contended that the present respondent has neither employed or paid the complainant nor terminated her services; that the respondent is not having the authority to appoint or reinstate the complainant; that he passed no adverse order or took no adverse action against the complainant; that it is not his decision not to take the complainant in the employment and that on the contrary, he forwarded the proposal to the superior for compliance. Accordingly, the learned Advocate for the respondent contended that the allegation of unfair labour practice cannot sustain against the respondent.

29. The above contentions raised in written notes of arguments of the respondent cannot be considered for more than one reason. Firstly, they are without any pleading. Secondly, as discussed herein above, such contentions cannot be subject matter of this complaint. They ought to have been raised in previous proceedings. If such contentions had been raised in previous proceedings, then complainant could have impleaded appropriate authority. Having incurred liability to make the complainant permanent and to reinstate her with continuity of service and 25% back wages, now the respondent cannot take above stand in this proceeding which is akin to the execution proceeding. Hence, above contentions cannot be considered.

30. To sum up, from the record it emerges that there are two Judgments and orders in favour of the complainant passed in Complaint (ULP) No. 462/1988 and Reference (IDA) No. 24/1996 whereby she was respectively granted permanency and reinstatement with continuity of service and 25% back wages. The Judgment in Complaint (ULP) No. 462/1988 was challenged unsuccessfully

before the Hon'ble High Court. Hence, it attained finality. The award in Reference (IDA) No. 24/1996 was challenged in Writ Petition No. 2656 of 2013. During pendency of that Writ Petition, the amount of back wages was deposited, but other directions are not complied. Ultimately, said Writ Petition also came to be dismissed. Therefore, said award also reached to finality. The proposal to comply said Judgment and order is forwarded by the respondent to the superior authority, but even after lapse of about 32 and 15 years of such respective orders, the proposal is not finalized. By not taking decision on such proposal during such inordinate period, the respondent factually failed to implement the same. Therefore, this Court is of the view that the allegation of unfair labour practice under item 9 is proved.

31. So far as the allegation under item 10 is concerned, from undisputed facts it emerges that instead of granting the permanency to complainant pursuant to the Judgment and order in Complaint (ULP) No. 462/1988, the respondent terminated her services w.e.f. 16.4.1996, which compelled her to raise another industrial dispute vide Reference (IDA) No. 24/1996. In such attending facts and circumstances, the allegation of the complainant that the respondent indulged in act of force as contemplated under item 10 appears to be sustainable. Thus, this Court is of the view that the complainant succeeded in establishing unfair labour practice under items 9 and 10 of Schedule IV of the MRTU & PULP Act on the part of the respondent. Accordingly, Issue No.2 is answered.

As to Issue No. 3 :

32. As held in Issue No. 2, the respondent engaged in alleged unfair labour practices. Therefore, complainant deserves the

consequential reliefs. She sought the implementation of the Judgments and orders in Complaint (ULP) No. 462/1988 and award in Reference (IDA) No. 24/1996. As discussed above, the Judgment and order in Complaint (ULP) No. 462/1988 is not complied yet. So far as the Award in Reference (IDA) No. 24/1996, is concerned, the direction to the extent of 25% back wages are complied and the rest directions are yet not complied. Since, the decision in both the matters is binding on the respondent, the respondent is liable to implement the same. Therefore, the complainant is entitled to the sought relief except the relief of payment of back wages. Accordingly, Issue No. 3 is answered and following order is passed :

ORDER

The complaint is hereby partly allowed in following terms :

- (1) It is hereby declared that the respondent has engaged in unfair labour practice under items 9 and 10 of Schedule IV of the MRTU & PULP Act, 1971 by not fully implementing the Judgment and order in Complaint (ULP) No. 462/1988 and also by not implementing the award in Reference (IDA) No. 24/1996 to the extent of grant of reinstatement with continuity of service.
- (2) The respondent is hereby directed to cease and desist from such unfair labour practices.
- (3) The respondent is further directed to take affirmative action and implement said Judgment & order and award fully and partly as the case may be within three months from the date of this order.
- (4) No order as to the costs.

Sangli

Dated : 17.03.2026

Argued on : 17.03.2026

Judgment directly dictated on : 17.03.2026

Judgment checked & signed on : 18.03.2026

(F. M. Pathan)

Member, Industrial Court, Sangli