

MHIC360000292023



Presented on : 17-02-2023

Registered on : 17-02-2023

Decided on : 17-03-2026

Duration : 3 years, 1 months, 0 days

**Exh. No. O - 5**

**IN THE INDUSTRIAL COURT, MAHARASHTRA,  
(BHANDARA BENCH), BHANDARA.**

**REVISION APPLICATION (ULP) NO. 09/2023**  
(CNR NO. - MHIC360000292023)

01. The Project Officer,  
Soil and Water Management,  
Pilot Project, Wainganga Nagar,  
Nagpur.

02. The Sub-Divisional Engineer,  
Pench Irrigation Sub-Division,  
Kandri-Jam, Tah. Mohadi,  
District - Bhandara.

..... **APPELLANTS**

**- V E R S U S -**

Prakash Dasaram Basine,  
Age - adult,  
R/o Sirsoli, Post - Kanhalgaon,  
Tq. Mohadi, Dist. - Bhandara.

..... **RESPONDENT**

**IN THE MATTER OF REVISION APPLICATION UNDER SECTION 44 OF THE MAHARASHTRA RECOGNITION OF TRADE UNIONS AND PREVENTION OF UNFAIR LABOUR PRACTICES ACT, 1971.**

**CORAM** : **Kishore M. Jaiswal**, Member,  
Industrial Court, Bhandara.

**Appearance** : Mr. R. V. Bhanarkar, Advocate for the appellants.  
Mr. N. P. Deogade, learned Advocate for respondent.

**J U D G M E N T**

(Delivered on 17<sup>th</sup> day of March, 2026)

This revision is filed by the appellants under Section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practice Act, 1971 (here-in-after referred as “the M. R. T. U. and P. U. L. P. Act”) challenging the judgment and order passed by the learned Labour Court, Bhandara in Complaint (ULP) No. 39/2013 dated 15/02/2021. (The parties hereinafter shall be referred to as per their original status before the learned Labour Court).

02. For the purpose of deciding this revision, record & proceedings of complaint before the learned Labour Court was called for. I have gone through the complete papers and documentary evidence put up before the learned trial Court.

**FACTUAL MATRIX**

03. Initially, the complainant was appointed by respondent no. 2 as an adhoc employee / daily-wager for distribution of canal water. The work of complainant was perennial in nature and he has continuously worked with respondent no. 2 without any break and has completed 240

days continuous service in each calender year form the date of his initial appointment till the termination of his service. On 10/09/2001, the respondents have illegally and orally terminated his services without any reason and the complaint was filed with allegation that the respondents are engaged in unfair labour practices under Item No. 1 of Schedule IV of the M.R.T.U. & P.U.L.P. Act and accordingly, the complaint was filed.

04. Before the trial Court, the respondents have appeared and filed their written statement vide Exh. C-4. All the adverse allegations were denied. According to the respondents, the complainant was engaged for distribution of canal water as per requirement of department and activity was seasonal in nature and only for 2-3 months in a year. The aspect of 240 days of continuous service in one calender year was denied. Before the trial Court, both parties have led the evidence and after hearing both the parties, the trial Court has allowed the complaint and declared that the respondents are indulged in unfair labour practice and alleged termination order dtd. 10/09/2001 was set aside and respondents were directed to reinstate the complainant with full back wages. Same is under challenge in this revision petition.

05. Upon rival submissions of both parties, following points arise for my determination and I have recorded my decision against it for the reasons stated below :-

**POINTS FOR DETERMINATION**

**DECISION**

01. Whether the impugned judgment and order passed in Complaint (ULP) No. 39/2013 dtd. 15/02/2021 by the

learned Labour Court, Bhandara suffers from legal infirmity or any error apparent on the face of record and warrants interference ? ..... In the negative.

02. What order ? ..... As per final order.

### **REASONS**

06. Section 44 of the M.R.T.U. & P.U.L.P. Act confers only supervisory jurisdiction on this Court. The scope for assessing the correctness or otherwise of the judgment of the Labour Court being quite limited re-appreciation of the evidence adduced by the parties is not permissible nor simply because some other view is possible the view taken by the learned Labour Court can be brushed aside. It is, in the backdrop of such limited jurisdiction to be seen whether the impugned orders suffer from any error or perversity.

07. Heard learned Advocate Mr. R. V. Bhanarkar for the appellants and learned Advocate Mr. N. P. Deogade for the respondent. Having regard to submissions advanced at bar, I am answering aforesaid points.

### **AS TO POINTS NO. 1 & 2 :-**

08. In order to avoid repetitions, both the points are taken up together for discussion.

09. Learned Advocate for the respondent Mr. R. V. Bhanarkar argued that the complainant has failed to prove his case about continuous working of 240 days in one calendar year and the trial Court

has not properly appreciated the muster roll produced on record. He further argued that unless there is pleading about gainful employment after termination till date of order, no full back wages with reinstatement can be granted. He, thus, argued that the order suffers from the legal error apparent on the face of record.

10. As against this, learned Advocate for the complainant Mr. N. P. Deogade argued that the complainant was appointed in the year 1988 and thereafter, he continuously worked and without any notice or compliance of provisions of Section 25 (F) & (G) of the Industrial Disputes Act, 1947 (here-in-after referred as "the I.D.Act"), the respondents have terminated his services.

11. I have carefully gone through the evidence led before the trial Court and the reasons given in the said order. On perusal of the record, though the complainant has asked to produce muster roll, the respondents have failed to do so and rightly the learned trial Court has drawn the adverse inference. The document Exh. C-14 i.e. seniority list has rightly been considered and appreciated by the trial Court. When the respondents are custodian of muster register and the complainant has filed notice to produce those documents, certainly failure to file such important evidence shows that deliberately the respondents have tried to suppress the actual fact from the Court. In my considered opinion, rightly the learned trial Court has held that the complainant has proved about his continuous working of 240 days in each calender month. The evidence of respondents specifically cross-examination reveals that the nature of work of complainant was not seasonal, but repairing of canal

work was available for whole year and this aspect is also rightly considered by the trial Court.

12. The defence taken by the respondents is that in the year 2000, they have entrusted the work to the contractor and therefore, services of complainant was terminated from 10/09/2001. There is nothing on record as to any notice was issued or principles of natural justice was followed before terminating the services of the complainant specifically provided under Section 25 (F) & (G) of the I.D.Act, which certainly amounts to violation of basic rights of the complainant. I do not find any reason to interfere with the findings given by the learned trial Court as to issues no. 1 to 3. Legal and valid reasons are given for answering those issues.

13. So far as reinstatement with full back wages is concerned, the complainant was in service since 1988 and was wrongfully terminated. No cogent or trustworthy evidence is produced by the respondents before the trial Court to show that it was exceptional circumstances for not granting back wages. The Hon'ble Bombay High Court in Writ Petition No. 6405/2022, which is similar to the present case, has held that Irrigation Department is an industry and under the given circumstances, oral testimony of complainant has to be believed. Drawing of adverse inference regarding non-production of muster roll has also been considered and I rely on the said judgment of the Hon'ble Bombay High Court as it is applicable to present case and by placing reliance on same, there is no merits in this revision petition.

14. The evidence of complainant shows that he was not gainfully employed anywhere and he was dependent on the earing source of relatives. This testimony of complainant remained unchallenged and unshattered in cross-examination and therefore, I find no reason to interfere in the findings, which are recorded by the learned trial Court as to issue no. 4.

15. The learned trial Court has properly considered the evidence of parties and rightly concluded that the complainant has continuously worked for 240 days in each calender year and oral termination of his services amounts to unfair labour practice and has rightly passed the order of reinstatement with full back wages. I do not find any perversity in the judgment of learned trial Court. Thus, the findings of the trial Court in the given circumstances, needs no interference as the order appears to be legal one and provisions of law are rightly considered.

16. In view of above reasons, I do not find any reason to hold that the impugned judgment and order passed by the learned trial Court is illegal and contrary to the provisions of law and there is an error apparent on the face of record, which warrants interference. I, therefore, answer point no. 1 in the negative and proceed to pass following order in respect of point no. 2.

**ORDER**

01. The revision application is rejected.

02. The original record and proceeding along with copy of this order be sent to the learned Labour Court, Bhandara immediately.

03. No order as to costs.

BHANDARA.

Date :- 17/03/2026.

Argued on : 17/03/2026  
Dictated on : 17/03/2026  
Typed on : 17/03/2026  
Checked & Signed on : 17/03/2026.  
MSH/-

(Kishore M. Jaiswal)  
Member,  
Industrial Court, Bhandara.