AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14928 OF 2024

Sanjay Shamrao Bhor … Petitioner

V/s.

Pune Municipal Corporation … Respondent

WITH

WRIT PETITION NO.15166 OF 2024

Prashant Harishchandra Bibave … Petitioner

V/s.

Pune Municipal Corporation … Respondent

WITH

WRIT PETITION NO.15167 OF 2024

Amol Balasaheb Tapkir … Petitioner

V/s.

Pune Municipal Corporation … Respondent

WITH

WRIT PETITION NO.15168 OF 2024

Shashibhushan Maruti Hole … Petitioner

V/s.

Pune Municipal Corporation … Respondent

WITH

WRIT PETITION NO.15169 OF 2024

Chetan Pandurang Chattar … Petitioner

V/s.

Pune Municipal Corporation … Respondent

Mr. Nitin Kulkarni with Mr. Avinash Belge for the petitioner in all writ petitions.

Mr. Abhijit P. Kulkarni with Ms. Sweta Shah and Mr. Abhishek Roy for the respondent-PMC.

CORAM : AMIT BORKAR, J.

RESERVED ON MAY 7, 2026

PRONOUNCED ON : MAY 8, 2026

JUDGMENT:

1. Since common questions of fact and law arise for consideration in all the present writ petitions, the same are being decided and disposed of by this common Judgment and Order. For the sake of convenience and to avoid repetition of facts, Writ Petition No. 14928 of 2024 is treated as the lead matter, and the facts pleaded therein are referred to for the purpose of adjudication of the present group of petitions.

2. By these writ petitions instituted under Articles 226 and 227 of the Constitution of India, the petitioners have assailed the legality, correctness, and propriety of the Judgment and Award dated 30 May 2024 rendered by the learned Labour Court, Pune, in the respective references preferred by the petitioners.

3. The brief facts giving rise to the present petitions are that the petitioner had raised an industrial dispute questioning the legality of the termination of his services effected by the respondent by order dated 19 March 2011. The Appropriate Government, upon being satisfied about the existence of an industrial dispute within the meaning of the provisions of the Industrial Disputes Act, 1947, made a reference for adjudication to the Labour Court at Pune. Pursuant to the notice issued by the Labour Court in the said reference proceedings, the petitioner appeared and filed his Statement of Claim setting out the factual and legal basis of his

challenge.

4. In the Statement of Claim, the petitioner pleaded that he was appointed to the post of Junior Engineer on 24 March 2008 pursuant to an advertisement published in the daily newspaper "Dainik Lokmat" dated 25 September 2005 inviting applications for the post of Junior Engineer (Civil). According to the petitioner, he possessed the requisite educational qualifications and had accordingly participated in the selection process comprising a written examination and interview. It was his case that though he was not initially selected, his name was included in the waiting list prepared by the respondent. Subsequently, on account of availability of work in the Heritage and JNNURM Departments, the petitioner came to be offered appointment on the basis of his merit position in the waiting list. The petitioner relied upon the office note dated 10 March 2008 pursuant to which he was appointed, and further contended that Resolution No. 266 dated 27 May 2008 was thereafter passed recognizing and approving such appointment.

5. The petitioner further contended that he was continued in service by issuance of temporary appointment orders for fixed periods of six months from time to time with an intention to deprive him of the benefits attached to permanent employment. According to the petitioner, though in substance he was discharging regular and perennial duties, the respondent sought to describe his employment as contractual under Section 73 of the Maharashtra Municipal Corporations Act, while at the same time attempting to claim protection under Section 2(oo)(bb) of the

Industrial Disputes Act, 1947, so as to exclude the termination from the ambit of retrenchment.

6. It was further the case of the petitioner that he had rendered continuous service for more than 240 days. On that basis, along with other similarly situated employees, the petitioner instituted a complaint alleging commission of Unfair Labour Practice before the Industrial Court at Pune under the provisions of the MRTU & PULP Act, inter alia seeking conferment of permanency under Clause 4(C) of the Model Standing Orders. In the said complaint, a specific contention was raised that out of 283 sanctioned posts of Junior Engineers, 34 posts were lying vacant and that 22 junior employees had already been granted permanency, whereas similar treatment was denied to the petitioner without any justifiable basis.

7. During the pendency of the aforesaid complaint, the petitioner also moved an application seeking interim relief. The Industrial Court, after hearing the parties and considering the material placed on record, partly allowed the interim application by Judgment and Order dated 30 July 2010 and directed the respondent to continue the petitioner in service till duly selected candidates appointed in accordance with the recruitment rules joined duties in place of the complainants. The said interim order admittedly attained finality, the respondent having not challenged the same before any superior judicial forum. The petitioner contended that notwithstanding the subsistence and binding nature of the aforesaid interim order, the respondent abruptly terminated his services by office order dated 19 March 2011.

According to the petitioner, the said action amounted to a clear breach and disobedience of the order passed by the Industrial Court. Aggrieved thereby, the petitioner instituted Criminal Complaint No. 28 of 2011 before the Labour Court at Pune under Section 48(1) of the MRTU & PULP Act alleging wilful violation of the interim order dated 30 July 2010. The Labour Court, by order dated 17 September 2013, prima facie recorded a finding that breach of the order passed by the Industrial Court was made out and accordingly issued process against the respondent.

8. Being aggrieved by the issuance of process, the respondent preferred Revision Application (ULP) No. 214 of 2013 before the Industrial Court at Pune. The Industrial Court, by its order in revision, remanded the matter to the Labour Court with a direction to examine the question as to whether previous sanction under Section 197 of the Code of Criminal Procedure was necessary before proceeding further with the complaint. Upon remand, the Labour Court reheard the matter and once again, by order dated 28 September 2017, issued process against the respondent. The petitioner, therefore, contended before the Labour Court that the termination order dated 19 March 2011 was illegal, arbitrary, and contrary to the binding interim order dated 30 July 2010 passed by the Industrial Court and consequently liable to be quashed and set aside.

9. The petitioner further contended that he had completed continuous service in excess of 240 days and that his services came to be terminated without compliance with the mandatory requirements prescribed under Section 25F of the Industrial

Disputes Act, 1947. It was also his contention that the respondent had failed to display and maintain the seniority list as contemplated under Rule 81 of the Industrial Disputes (Maharashtra) Rules, 1957 and, therefore, the impugned action of termination stood vitiated in law and was liable to be treated as illegal and void ab initio. It was further brought on record that the complaint alleging commission of Unfair Labour Practice and seeking permanency ultimately came to be dismissed on merits by the Industrial Court by Judgment and Order dated 9 March 2016. Challenging the said Judgment and Order, the petitioner preferred Writ Petition No. 9668 of 2016 before this Court, which subsequently came to be disposed of by order dated 31 January 2023.

10. In the meanwhile, pursuant to the notice issued in the reference proceedings, the respondent appeared before the Labour Court and filed its Written Statement resisting the claim and justifying the termination. The principal defence raised by the respondent was that the petitioner had been appointed purely on temporary and contractual basis for fixed periods of six months from time to time and, therefore, cessation of employment upon expiry of such contractual tenure would fall within the exception carved out under Section 2(oo)(bb) of the Industrial Disputes Act, 1947 and would not amount to retrenchment within the meaning of the said Act. In order to substantiate his contention that he had rendered continuous service for more than 240 days, the petitioner issued a notice to produce documents at Exhibit U-8 calling upon the respondent to produce the muster-cum-wage register for the

period from 24 March 2008 to 19 March 2011. The said application came to be allowed by the Labour Court by order dated 27 July 2022.

11. The petitioner thereafter entered the witness box and examined himself at Exhibit U-14 in support of the case pleaded by him. On behalf of the respondent, Shri Avinash Vasant Wanjari was examined at Exhibit C-15 and was subjected to detailed cross-examination on behalf of the petitioner. The respondent also examined Shri Vijay Tukaram Pawar at Exhibit C-16, who was likewise extensively cross-examined by the petitioner. The deposition of Shri Vijay Tukaram Pawar forms part of the record of the proceedings. Upon appreciation of the pleadings, oral evidence, documentary material produced on record, and the submissions advanced on behalf of the respective parties, the learned Labour Court, Pune, by the impugned Judgment and Award dated 30 May 2024, rejected the reference preferred by the petitioner. Being aggrieved by the aforesaid Judgment and Award passed by the Labour Court, the petitioners have invoked the supervisory and extraordinary writ jurisdiction of this Court under Articles 226 and 227 of the Constitution of India.

12. Mr. Nitin Kulkarni, learned counsel appearing on behalf of the petitioner, submitted that it is an undisputed and admitted position on record that the interim order dated 30 July 2010 passed by the Industrial Court was subsisting and operative on the date on which the petitioner's services came to be terminated, namely on 19 March 2011. He submitted that the respondent was, therefore, under a legal obligation to act strictly in conformity with

and subject to the directions contained in the said interim order passed by the Industrial Court. According to the learned counsel, the Labour Court exceeded the scope and ambit of the reference inasmuch as the dispute referred for adjudication was confined to the issue, as to whether the termination effected on 19 March 2011 was legal and proper and whether the petitioner was entitled to reinstatement with continuity of service and full back wages. It was contended that instead of restricting itself to the terms of the reference, the Labour Court proceeded to adjudicate upon issues relating to permanency, though such questions had already been the subject-matter of proceedings before the Industrial Court which ultimately culminated in dismissal of the complaint. He submitted that the Labour Court erroneously entered into the issue as to whether the petitioner was a temporary employee and whether he was entitled to permanency, though the said controversy was wholly dehors the scope of the reference. It was, therefore, contended that the Labour Court travelled beyond the terms of reference and thereby committed an error apparent on the face of the record.

13. Learned counsel further submitted that after issuance of the termination order, the petitioner had instituted Criminal Complaint No. 28 of 2011 under Section 48(1) of the MRTU & PULP Act before the Labour Court alleging breach and willful disobedience of the interim order passed by the Industrial Court. He submitted that while issuing process by order dated 17 September 2013, the Labour Court recorded a categorical finding that the respondent had been directed to continue the complainant in employment till

newly selected candidates joined service in place of the complainants. The Labour Court further observed that though office orders dated 27 January 2011, 7 February 2011, 25 February 2011, 10 March 2011 and 28 March 2011 reflected appointment of selected candidates, the said appointments were made against vacancies arising on account of promotions and transfers and not against the posts occupied by the complainants. According to the learned counsel, the Labour Court had specifically recorded a finding that the selected candidates were not appointed in place of the petitioner.

14. He further submitted that even after remand, while passing the subsequent order dated 28 September 2017, the Labour Court reiterated its earlier finding that no selected candidate had been appointed either against the petitioner's post or in his place. In view of the aforesaid findings, it was contended that there was a clear, direct, and evident breach of the interim order dated 30 July 2010 passed by the Industrial Court. According to the learned counsel, while adjudicating the reference proceedings, the Labour Court failed to take into consideration the findings recorded in the proceedings instituted under Section 48(1) of the MRTU & PULP Act and consequently arrived at a wholly perverse and unsustainable conclusion.

15. It was further submitted that the Labour Court ought to have quashed and set aside the termination order solely on the ground that the same had been effected in breach of the subsisting interim order passed by the Industrial Court. However, instead of examining the legal effect and binding nature of the interim

protection granted by the Industrial Court, the Labour Court erroneously proceeded on the footing that since the complaint alleging Unfair Labour Practice ultimately came to be dismissed by the Industrial Court by Judgment and Order dated 9 March 2016, the interim order stood merged with the final adjudication and consequently the termination became legal and valid. According to the learned counsel, such reasoning clearly discloses total non application of mind and complete misdirection in law. He therefore prayed that the impugned Judgment and Award passed by the Labour Court be quashed and set aside.

16. Mr. Nitin Kulkarni further submitted that the petitioner in Writ Petition No. 14928 of 2024 was employed on contractual basis during the periods from September 2011 to December 2012, August 2013 to December 2013, December 2013 to November 2014, and December 2014 to May 2015. He submitted that the petitioner in Writ Petition No. 15166 of 2024 was employed on contractual basis for the period from 5 December 2014 to 31 May 2015, whereas the petitioner in Writ Petition No. 15167 of 2024 was engaged on contractual basis from December 2014 to May 2015. It was further submitted that the petitioner in Writ Petition No. 15168 of 2024 was employed on contractual basis during the periods from December 2011 to December 2012, August 2013 to April 2014, December 2014 to May 2015, June 2018 to December 2021, and January 2022 to August 2023. Likewise, the petitioner in Writ Petition No. 15169 of 2024 was employed on contractual basis for the period from 5 December 2014 to 31 May 2015.

17. Per contra, Mr. Abhijit P. Kulkarni, learned Advocate appearing on behalf of the respondent Corporation, invited my attention to the judgment rendered by this Court in Writ Petition No. 5546 of 2010 whereby the writ petition instituted by the very same petitioners seeking regularisation of their services came to be dismissed. He therefore submitted that the petitioners are not entitled to the reliefs of reinstatement and back wages. The learned counsel further submitted that though the petitioner had applied pursuant to the advertisement issued by the respondent, he was not selected in the regular recruitment process and his name did not figure in the select list. According to him, the petitioner thereafter came to be appointed only on the basis of the office note and resolution and such appointment was purely contractual in nature and not by way of regular recruitment. He submitted that since the appointment itself was for fixed periods of six months at a time, the petitioner could not claim reinstatement as a matter of right. It was further contended that upon completion of the project work, the services of the petitioner were no longer required by the respondent Corporation.

18. Learned counsel for the respondent further submitted that the petitioner had already claimed permanency before the Industrial Court and the said complaint ultimately came to be dismissed on merits. According to him, the interim order passed in the said proceedings merged with the final order passed by the Industrial Court. He submitted that pursuant to the interim directions issued by the Industrial Court, the petitioner's services were extended for a further period of six months, however, the

actual and effective termination had taken place on 22 July 2010. It was contended that the petitioner could not claim 19 March 2011 as the date of termination since prior thereto he had merely been continued in employment pursuant to the interim directions issued by the Industrial Court. On the aforesaid basis, it was contended that the reference itself was not maintainable.

19. Learned counsel further submitted that the appointment of the petitioner was made under Section 534(1) of the BPMC Act and, therefore, the petitioner was never a regularly recruited employee but was only a contractual employee engaged for a limited period. It was contended that the petitioner had also failed to succeed in the subsequent recruitment examination conducted pursuant to a fresh advertisement and, therefore, could not claim benefits such as permanency, back wages, seniority, or continuity of service. According to the respondent, since the petitioner was a temporary contractual employee, the provisions of Section 25F of the Industrial Disputes Act, 1947 were not attracted. Learned counsel submitted that detailed written notes of arguments had also been tendered before the Court and, therefore, repetition of the same was avoided. In support of his submissions, reliance was placed upon the judgments of this Court in *Sangli Miraj Kupwad Cities Municipal Corporation, Sangli vs. Mahapalika Kamgar Sabha, Sangli i*n Writ Petition No. 4647 of 2011 decided on 23 July 2012*; Ramesh Vitthal Patil & Others vs. Kalyan Dombivali Municipal Corporation & Others* in Writ Petition Nos. 443, 565 and 901 of 2010 decided on 7 June 2010*; and the judgment of the Supreme Court in Secretary, State of Karnataka & Others vs.*

Umadevi & Others, reported in 2006 INSC 216.

20. Mr. A.P. Kulkarni, while inviting my attention to the interim order dated 30 July 2010, submitted that the Industrial Court had directed the respondent Municipal Corporation to continue all the petitioners in employment till candidates duly selected in accordance with the recruitment rules joined service. He submitted that no material whatsoever had been placed on record by the respondent Municipal Corporation to demonstrate that duly selected candidates appointed in accordance with the recruitment rules had in fact joined service in place of the petitioners and, therefore, the termination of the petitioners' services was clearly in breach of the order passed by the Industrial Court. He further submitted that for the alleged breach of the said order, the petitioners had already instituted criminal proceedings under Section 30 of the Industrial Disputes Act wherein process had been issued against the Municipal Corporation. Learned counsel further submitted that the candidates who came to be appointed against the posts on which the petitioners were working were newly selected candidates. According to him, though there may not be any specific finding recorded regarding appointment of such candidates strictly in accordance with the recruitment rules, a presumption would nevertheless have to be drawn that such appointments were made after following the prescribed recruitment procedure and rules.

REASONS AND ANALYSIS:

21. I have given my thoughtful and anxious consideration to the

rival submissions canvassed by the learned counsel appearing on behalf of the respective parties. I have also carefully gone through the pleadings filed before the Labour Court, the documentary material forming part of the present record, the oral evidence led by both sides, and the various orders passed in the connected proceedings before the Industrial Court and the Labour Court from time to time.

22. The first circumstance, which in my opinion goes to the root of the matter, is that the interim order dated 30 July 2010 admittedly continued to remain operative on the date on which the termination order dated 19 March 2011 came to be issued. This factual position is undisputed between the parties. The Industrial Court, while passing the interim order, had directed the respondent Corporation to continue the complainants in employment till duly selected candidates appointed in accordance with the recruitment rules joined duties in their place. Such direction was a binding and operative order passed after hearing the parties. Once such an order came into existence, it imposed a corresponding obligation upon the respondent Corporation to act in conformity with the same.

23. A judicial order cannot be treated as advisory. So long as the order remained operative, the respondent could not obey one part and ignore another part. The respondent was under obligation to demonstrate that the condition prescribed in the interim order had in fact occurred before terminating the services of the petitioners. Unless duly selected candidates appointed in accordance with recruitment rules joined in place of the petitioners, the respondent

could not have dispensed with their services. The sanctity attached to judicial orders is an important part of administration of justice. If parties are permitted to disregard interim orders on their own understanding, then the authority of judicial forums itself would become uncertain. Therefore, the legal effect of the interim order dated 30 July 2010 had to be given full weight and significance unless it was set aside by a superior Court or otherwise ceased to operate.

24. The petitioners, in my opinion, are justified in contending that the Labour Court while adjudicating the industrial reference was expected to confine itself to the specific terms of reference made by the Appropriate Government. The dispute referred for adjudication was limited in nature. The Labour Court was required to decide whether the termination dated 19 March 2011 was legal and proper and whether the petitioners were entitled to reinstatement with continuity of service and back wages. The reference was not framed as a adjudication regarding permanency or regularisation. However, from the reasoning recorded in the impugned Award, it appears that the Labour Court travelled into the question whether the petitioners were temporary employees and whether they were entitled to permanency.

25. No doubt, certain incidental observations regarding nature of employment may become necessary while deciding legality of termination. However, there is distinction between considering background facts and reopening an issue already adjudicated elsewhere. The complaint relating to permanency had already been adjudicated by the Industrial Court and ultimately dismissed.

Therefore, the Labour Court ought to have exercised restraint while dealing with those aspects. An adjudicating authority functioning under a statutory reference cannot enlarge the scope of reference on its own and undertake fresh examination of matters which were not referred for adjudication. In my opinion, the reasoning adopted by the Labour Court on the aspect of permanency unnecessarily overshadowed the issue relating to legality of termination in the face of the subsisting interim order.

26. The proceedings initiated under Section 48(1) of the MRTU & PULP Act also assume significance in the present matter. After termination of services, the petitioner instituted Criminal Complaint No. 28 of 2011 alleging deliberate breach of the interim order passed by the Industrial Court. While issuing process by order dated 17 September 2013, the Labour Court recorded certain important prima facie findings. The Labour Court specifically observed that the respondent had been directed to continue the complainants till newly selected candidates joined in their place. The Labour Court further noticed that the office orders relied upon by the respondent only showed appointment of candidates against vacancies created due to promotions and transfers. These observations though recorded at the stage of issuance of process, they discloseconsideration of the material placed before the Court regarding compliance with the interim order. Once such findings existed on record in connected proceedings arising from the same factual controversy, the Labour Court while adjudicating the reference was expected to consider them carefully and assign reasons if it intended to take a different

view. However, from the impugned Award, it appears that the Labour Court failed to consider the effect of these earlier findings.

27. The subsequent order dated 28 September 2017 passed after remand assumes equal importance. Even after reconsideration, the Labour Court reiterated that no selected candidate had been appointed either against the petitioner's post or in his place. This repetition indicates that even upon reconsideration, the Labour Court itself was unable to find material showing compliance with the condition imposed by the Industrial Court in the interim order dated 30 July 2010. Once such position emerges from the record, the respondent could not contend that the cessation of service was merely contractual expiry. The interim order had imposed a specific condition precedent before termination could take effect.

28. In practical terms, the burden rested upon the respondent Corporation to establish that duly selected candidates appointed according to recruitment rules had actually joined service in place of the petitioners. Mere production of office orders showing appointments elsewhere was insufficient. The respondent was required to establish direct nexus between appointment of selected candidates and replacement of the petitioners. The material referred to in the breach proceedings does not establish such replacement. Therefore, the Labour Court while deciding the reference ought to have examined this aspect in greater detail instead of proceeding mainly on the footing that the petitioners were contractual employees.

29. At the same time, it cannot be said that the respondent is without defence or that all submissions raised on behalf of the respondent deserve outright rejection. The written statement filed before the Labour Court, the oral submissions advanced before this Court, and the judgments relied upon by the respondent proceed on the basis that the petitioners were not regularly recruited employees. According to the respondent, their appointments were purely contractual and for fixed duration under Section 534(1) of the BPMC Act. The respondent has also relied upon Section 2(oo)(bb) of the Industrial Disputes Act by contending that cessation of contractual employment upon expiry of stipulated period would not amount to retrenchment.

30. It is also a matter of record that the complaint filed by the petitioners seeking permanency came to be dismissed by the Industrial Court by Judgment and Order dated 9 March 2016. The said order was subsequently carried before this Court in Writ Petition No. 9668 of 2016 which also came to be disposed of on 31 January 2023. Therefore, the issue relating to permanency cannot now be reopened in manner as if no earlier adjudication had taken place. The findings recorded in those proceedings have attained finality between the parties. To that extent, the Labour Court was justified in observing that the petitioners could not seek conferment of permanency afresh through the present industrial reference.

31. However, merely because the petitioners failed in obtaining permanency does not mean that the termination in question became legal. These are two separate and distinct legal issues. A

workman may fail in establishing right to permanency and still succeed in proving that the termination of his service was contrary to law for independent reasons. The respondent appears to proceed on assumption that dismissal of the permanency complaint automatically erased or nullified the interim protection granted earlier by the Industrial Court. In my opinion, such approach cannot be accepted in law.

32. An interim order remains operative and binding during the period of its existence. The legality of an act done during the subsistence of such order must be examined with reference to the facts existing on that date. If termination was effected during operation of the interim order and without satisfying the condition prescribed therein, then subsequent dismissal of the main complaint cannot retrospectively cure such illegality. Otherwise, parties would be free to violate interim orders during pendency of proceedings and later justify the same merely because the main proceedings ultimately failed. Such interpretation would dilute enforceability of interim orders. Therefore, the legality of the termination dated 19 March 2011 must be examined with reference to the legal position prevailing on that date and not merely on the basis of eventual dismissal of the permanency complaint years later.

33. The submission advanced by the respondent that the termination had already taken place on 22 July 2010 also does not materially advance the respondent's case on the present record. The documentary chronology placed before the Court clearly shows that the impugned order challenged in the industrial

reference is dated 19 March 2011. According to the petitioners, they continued in employment under protection of the interim order till that date. The respondent, on the other hand, seeks to describe such continuation as mere contractual extension. However, once the Industrial Court had directed continuation till replacement by duly selected candidates, the respondent could not merely describe the later cessation as expiry of contractual tenure without first demonstrating compliance with the conditions imposed by the Industrial Court.

34. The true issue, therefore, is not whether the appointment was contractual, but whether the respondent could terminate the petitioners without satisfying the conditions incorporated in the judicial order. The form or nomenclature of appointment cannot override the command contained in a binding order. Even a contractual employer remains bound by directions issued by court. Therefore, the respondent's argument regarding earlier termination date does not answer the petitioners' grievance relating to breach of interim protection.

35. The evidence led by the petitioners regarding completion of continuous service exceeding 240 days and the alleged violation of Section 25F of the Industrial Disputes Act also deserves careful consideration. The petitioner had issued notice to produce documents at Exhibit U-8 and the Labour Court had directed production of muster cum wage records. Thereafter, oral evidence was also led by both sides. The petitioner examined himself, while the respondent examined two witnesses. Thus, the Labour Court had before it sufficient material to examine factual continuity of

service. If the evidence on record established continuous service within meaning of the Industrial Disputes Act, then the protections available under Section 25F could not have been brushed aside merely because the respondent described the engagement as contractual. No doubt, Section 2(oo)(bb) carves out an exception in respect of fixed term contractual appointments. However, such exception cannot be applied in every case where repeated extensions are granted continuously over long duration. The Court is required to examine the substance of employment and not merely the label attached to it. Repeated renewals, continued engagement for perennial work, and existence of interim protection are all circumstances which require careful scrutiny before excluding applicability of Section 25F.

36. The argument advanced by the respondent that the interim order merged with the final order passed in the complaint proceedings also requires careful examination. It is true that interim orders lose independent existence once final adjudication takes place. However, this principle cannot be stretched to mean that any breach committed during subsistence of interim order disappears after final disposal of proceedings. The legality of conduct must be judged with reference to the point of time when such conduct occurred. If a party acts in breach of an operative order during pendency of proceedings, subsequent dismissal of the main complaint cannot retrospectively legitimise the earlier breach. At the highest, dismissal of the complaint may affect future continuation of interim relief. It cannot erase consequences arising from acts already committed contrary to judicial directions.

Therefore, the respondent's theory of merger does not satisfactorily answer the issue regarding legality of termination dated 19 March 2011 during subsistence of interim protection.

37. Much emphasis was laid by the learned Advocate appearing for the respondent Corporation on the judgment delivered by this Court in Writ Petition No. 5546 of 2010 wherein the claim of the present petitioners seeking regularisation of their services came to be rejected. According to the learned counsel, once the petitioners failed in obtaining relief of regularisation before this Court, they cannot thereafter seek reinstatement, continuity of service, or back wages in the present proceedings. It was therefore contended that the entire foundation of the present petitions becomes unsustainable in view of the earlier adjudication which has already attained finality between the parties. There cannot be any dispute regarding the legal position that the issue relating to regularisation and conferment of permanency upon the petitioners cannot now be reopened in the present proceedings. The earlier judgment undoubtedly binds the parties to the extent of the findings recorded therein. If the claim of regularisation has already been negatived by a competent Court, the petitioners cannot indirectly secure the same relief under another nomenclature. The respondent is therefore justified to the limited extent in contending that no blanket direction granting permanency or regularisation can now be issued in favour of the petitioners.

38. However, in my considered opinion, the submission of the respondent cannot be accepted in its broad form so as to non suit the petitioners even on the issue of legality of termination. The

controversy involved in the present proceedings is different from the issue which fell for consideration in Writ Petition No. 5546 of 2010. In the earlier proceedings, the Court was concerned with the question whether the petitioners were entitled to regularisation or permanency in service. In the present proceedings, the issue is whether the termination order dated 19 March 2011 was legal and proper, particularly when an interim order dated 30 July 2010 passed by the Industrial Court was admittedly operating between the parties. Thus, the cause of action as well as the legal issues involved in both proceedings are not entirely identical. Merely because an employee is held not entitled to regularisation, it does not automatically follow that every subsequent termination of such employee becomes immune from judicial scrutiny. Even a temporary or contractual employee is entitled to challenge termination if the same is shown to be contrary to statutory provisions, violative of principles of natural justice, or passed in breach of a binding judicial order. The rejection of claim for permanency does not confer liberty upon the employer to act contrary to subsisting judicial directions.

39. So far as the claim for reinstatement and back wages is concerned, the same has to be examined not from the angle of regularisation, but from the standpoint whether the termination itself was legally sustainable. If the Court ultimately finds that the termination was effected in violation of the interim protection granted by the Industrial Court, then consequential relief may follow in accordance with law notwithstanding rejection of the earlier claim for permanency. At the same time, such relief cannot

be equated with conferment of permanent status. The distinction between reinstatement consequent upon illegal termination and regularisation in service must always be kept in mind. Therefore, the judgment in Writ Petition No. 5546 of 2010 certainly restricts the petitioners from claiming permanency as a matter of right. However, the said judgment does not conclude the present controversy relating to legality and validity of the termination order dated 19 March 2011, particularly when allegations regarding breach of the subsisting interim order of the Industrial Court are raised and supported by material already available on record.

40. Taking an overall view of the matter, I find that the Labour Court attached disproportionate importance to the contractual nature of the appointments while giving insufficient consideration to the binding effect of the interim order dated 30 July 2010 and the findings recorded in the connected breach proceedings. The Labour Court also appears to have expanded the enquiry beyond the precise terms of reference by entering into elaborate discussion on permanency which had already been adjudicated separately. At the same time, it must also be observed that the petitioners cannot now claim permanency as an unrestricted relief because that controversy has already attained finality against them.

41. Therefore, the correct legal conclusion, in my considered opinion, is not that the petitioners acquired an enforceable right of permanency. The correct conclusion is that the termination dated 19 March 2011 could not have been sustained when it was effected during operation of a subsisting judicial order and without

establishing strict compliance with the conditions incorporated therein. The principal infirmity lies not merely in the contractual nature of appointment, but in the failure to demonstrate lawful compliance with the operative directions of the Industrial Court before terminating the petitioners' services.

42. For all the aforesaid reasons, I am of the considered view that the impugned Judgment and Award dated 30 May 2024 passed by the Labour Court cannot be sustained in law. The reasoning adopted by the Labour Court suffers from legal infirmity and failure to properly appreciate the effect of the interim order and the material findings recorded in the connected proceedings. The ultimate conclusion reached by the Labour Court, therefore, cannot be said to be supported by proper appreciation of the evidence and applicable legal principles.

43. In view of the foregoing discussion, and upon overall assessment of the material submissions, evidence on record, and the findings arrived at hereinabove, the following order is passed:

(i) All the writ petitions are partly allowed;

(ii) The impugned Judgment and Award dated 30 May 2024 passed by the learned Labour Court, Pune, in the respective references is quashed and set aside;

(iii) It is declared that the termination orders issued against the petitioners on 19 March 2011 are unsustainable in law, having been effected during subsistence of the interim order dated 30 July 2010 passed by the Industrial Court and without establishing compliance with the conditions

contained therein;

(iv) The respondent Corporation is directed to reinstate the petitioners in service on their original posts or on equivalent posts, subject to availability of work, within a period of twelve weeks from the date of uploading of this Judgment and Order;

(v) However, having regard to the peculiar facts and circumstances of the present case, particularly the admitted position that the petitioners had subsequently worked with different employers on contractual basis after cessation of service with the respondent Corporation, and further considering that the termination had taken place in the year 2011 whereas the present proceedings came to be instituted after considerable lapse of time, this Court is not inclined to grant full back wages;

(vi) The petitioner in Writ Petition No.14928 of 2024 having admittedly worked on contractual basis during the periods from September 2011 to December 2012, August 2013 to December 2013, December 2013 to November 2014, and December 2014 to May 2015; the petitioner in Writ Petition No.15166 of 2024 having worked from 5 December 2014 to 31 May 2015; the petitioner in Writ Petition No.15167 of 2024 having worked from December 2014 to May 2015; the petitioner in Writ Petition No.15168 of 2024 having worked during the periods from December 2011 to December 2012, August 2013 to April 2014, December 2014

to May 2015, June 2018 to December 2021, and January 2022 to August 2023; and the petitioner in Writ Petition No.15169 of 2024 having worked from 5 December 2014 to 31 May 2015, this Court finds that grant of full back wages would not be justified and would result in conferring monetary benefit even for periods during which the petitioners were gainfully employed elsewhere;

(vii) Accordingly, instead of full back wages, the respondent Corporation shall pay lump sum compensation quantified at 25% of the last drawn wages for the interregnum period from the date of termination till reinstatement, after excluding the periods during which the respective petitioners were admittedly employed elsewhere as stated hereinabove;

(viii) The petitioners shall be entitled to continuity of service only for the limited purpose of retiral and pensionary benefits, if otherwise admissible in law. However, such continuity shall not confer any right of permanency, regularisation, seniority, or promotional benefits;

(ix) It is clarified that this Judgment shall not be construed as granting regularisation or permanency to the petitioners and the respondent Corporation shall be at liberty to regulate their service conditions in accordance with law and applicable recruitment rules;

(xi) The respondent Corporation shall comply with the aforesaid directions within a period of twelve weeks from the date of uploading of this Judgment and Order;

(xii) Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

44. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)