*Shabnoor*

# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
## CIVIL APPELLATE JURISDICTION

## WRIT PETITION NO.12201 OF 2025

**Sulzer Pumps India Private Limited,**
a Company incorporated under the Companies Act, 1956 having its registered office at 9, MIDC, Thane – Belapur Road, Digha, Navi Mumbai 400708. … **Petitioner**



**V/s.**

1. **Sumeet Rajaram Kadam,**
   aged 37 years, A1, 809, Siddharth Nagar, B.S.U. P. Building Near Bhim Shakti Chowk, Prabodhankar Thackeray Marg, Kopri Colony, Thane (East) 400 603.
2. **Kailas Mohan Gurav,**
   aged 33 years, 301, A – Wing, Sitabai Niwas, Near Vittha Mandir, Sabe Road, Diva (East), District Thane 400 612.
3. **Ashvdeep Hari Bhalerao,**
   aged 35 years, Room No.03, B-Cabin Road, Near Railway Quarters, Shivaji Nagar, Gautam Wadi, Naupada, Thane 400 602.
4. **Ganesh Dashrath Dohale,**
   aged 33 years, At Khuntal (Bungalow), Post Saralgaon, Taluka Murbad, District Thane 421 401.
5. **Naresh Padmakar Rasal,**
   aged 33 years, at Khandape, Post Kolthan, Taluka Murbad, District Thane 421 401.
6. **Sopan Rajaram Chaudhari,**
   aged 39 years, At, Kokadpada, Post Vehale, Taluka Kalyan, District Thane 421 601.
7. **Maheshwar Dinkar Kocharekar,**
   aged 45 years, Shree Krushna Society, Room

No.10, Babusaheb Juvekar Marg,
Bhandup ( East), Mumbai 400 042.

8. **Nitin Vilas Waidhande, ,**
aged 36 years, Room No.952, Navjeevan Mitral Mandal, Anand Nagar,
Near Shivsena Shakha, Kopri Colony,
Thane 400 603.

9. **Vinod Subhash Kurade,**
aged 33 years, 408, Krishna Pride,
Behind Union Bank, Manpada Road,
Dombivli (East), District Thane 421 201.

10. **Sanket Mahendra Gade,**
aged 33 years, Shanti Nagar Vasahat,
Near 12 Bungalow, Kopri Colony,
Thane (East) 400 603.

11. **Vaibhav Manohar Gurav,**
aged 35 years, Room No.26, New Siddharth Nagar, Railway Chawl, Near Shankar Mandir,
Kopri Colony, Thane (East) 400 603.

12. **Sunil Shankar Ghanekar,**
aged 41 years, Tambe Chawl, Gokuldas Wadi,
Khopat, Thane (West) 400 601.

13. **Uppal Gurulal,** VP-IR,
Admin – CSR, M/s. Sulzer Ppumps India Pvt. Ltd., 9-MIDC, Thane Belapur Road,
Dighe, Navi Mumbai – 400 708.

14. **Amit kumar Sirohi,** AGM-HR IR,
M/s Sulzer Ppumps India Pvt. Ltd., 9-MIDC, Thane Belapur Road,
Dighe, Navi Mumbai – 400 708. **… Respondents**

**WITH**
**WRIT PETITION NO.12908 OF 2025**

1. **Sumeet Rajaram Kadam,**
aged 37 years, A1, 809, Siddharth Nagar, B.S.U. P. Building Near Bhim Shakti Chowk, Prabodhankar Thackeray Marg,
Kopri Colony, Thane (East) 400 603.

2 **Kailas Mohan Gurav,**
aged 33 years, 301, A – Wing, Sitabai Niwas,
Near Vittha Mandir, Sabe Road, Diva (East),
District Thane 400 612.

3. **Ashvdeep Hari Bhalerao,**
aged 35 years, Room No.03, B-Cabin Road,
Near Railway Quarters, Shivaji Nagar,
Gautam Wadi, Naupada, Thane 400 602.

4. **Ganesh Dashrath Dohale,**
aged 33 years, At Khuntal (Bungalow), Post
Saralgaon, Taluka Murbad,
District Thane 421 401.

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Taluka Murbad, District Thane 421 401.

6. **Sopan Rajaram Chaudhari,**
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aged 36 years, Room No.952, Navjeevan
Mitral Mandal, Anand Nagar,
Near Shivsena Shakha, Kopri Colony,
Thane 400 603.

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aged 33 years, 408, Krishna Pride,
Behind Union Bank, Manpada Road,
Dombivli (East), District Thane 421 201.

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aged 33 years, Shanti Nagar Vasahat,
Near 12 Bungalow, Kopri Colony,
Thane (East) 400 603.

11. **Vaibhav Manohar Gurav,**
aged 35 years, Room No.26, New Siddharth
Nagar, Railway Chawl, Near Shankar Mandir,

Kopri Colony, Thane (East) 400 603.

12. **Sunil Shankar Ghanekar,**
aged 41 years, Tambe Chawl, Gokuldas Wadi,
Khopat, Thane (West) 400 601. **… Petitioners**

**Vs.**

1. **Sulzer Pumps India Private Limited,**
a Company incorporated under the
Companies Act, 1956 having its registered
office at 9, MIDC, Thane – Belapur Road,
Digha, Navi Mumbai 400708.
2. **Uppal Gurulal,** VP-IR,
Admin – CSR, M/s. Sulzer Ppumps India Pvt.
Ltd., 9-MIDC, Thane Belapur Road,
Dighe, Navi Mumbai – 400 708.
3. **Amit kumar Sirohi,** AGM-HR IR,
M/s Sulzer Ppumps India Pvt.
Ltd., 9-MIDC, Thane Belapur Road,
Dighe, Navi Mumbai – 400 708. **… Respondents**

Mr. Shreeyash U. Lalit with Ms. Shweta R. Rathod i/b Elixir Legal Services, for the Petitioner in WP/12201/2025 & for the respondents in WP/12908/2025.

Ms. Jane Cox with Mr. Vinayak Suthar i/by Mr. Ghanshyam Thombare for the respondents in WP/12201/2025 & for the petitioner in WP/12908/2025.

**CORAM : AMIT BORKAR, J.**

**RESERVED ON : MARCH 13, 2026**

**RESERVED ON : MARCH 26, 2026**

**JUDGMENT:**

**1.** The present Writ Petitions arise from a common set of facts and involve substantially similar questions of law and appreciation of evidence. Having regard to the identity of issues, it is considered appropriate to dispose of all the petitions by this common judgment. For the sake of convenience and clarity, the facts in Writ Petition No. 12201 of 2025 are taken as the lead matter.

**2.** These petitions are filed under Article 227 of the Constitution of India, challenging the judgment and order dated 20 June 2025, hereinafter referred to as the Impugned Order, passed by the Learned Member of the Industrial Court at Thane in Complaint (ULP) No. 109 of 2022. By the Impugned Order, the Learned Industrial Court has recorded a finding that the Petitioner Company has indulged in unfair labour practices within the meaning of Items 5, 6 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The Industrial Court has further directed the Petitioner Company to grant permanency to Respondent Nos. 7 to 12, who are the original Complainant Nos. 7 to 12, with effect from 6 May 2022, being the date of institution of the complaint. In addition, the Petitioner Company has been directed to pay the differential wages and allowances at par with permanent employees in the corresponding category, within a period of ninety days from the date of receipt of the said order.

**3.** The factual background giving rise to the present petitions, in brief, is that the Petitioner Company contends that the

Respondents were engaged purely as casual workers, namely as casual helpers or labourers, on a need-based basis. According to the Petitioner, the nature of work assigned to them was inherently casual and intermittent, and was dependent upon the operational requirements of the Company. It is asserted that such engagement was neither continuous nor permanent, but was strictly contingent upon the availability of work from time to time. It is the specific case of the Petitioner that the Respondents were, at all material times, fully aware of the purely casual nature of their engagement. The Respondents were engaged on a rotational and need-based basis, and such engagement did not confer upon them any right to continuity of service or regular employment. The Petitioner asserts that the Respondents accepted these conditions without any demur and continued to render services with full knowledge of the terms governing their engagement. In support of the aforesaid contention, reliance is placed on the definition of “Casual Workman” as contained in Rule 3(2)(e) of the Model Standing Orders set out in Schedule I of the Bombay Industrial Employment (Standing Orders) Rules, 1959, which are applicable to workmen engaged in manual or technical work. The said provision defines a “Casual Workman” as one who is employed for work which is not incidental to or connected with the main manufacturing activity of the establishment and which is essentially of a casual nature. The Petitioner has further submitted that during the year 2020, on account of the nationwide lockdown imposed in view of the COVID-19 pandemic, the Company was compelled to scale down several non-essential operations, including activities involving

casual and non-core work. As a result, the engagement of casual workers, including the Respondents, was substantially reduced and adversely affected. It is further submitted that at no stage during the period of their engagement did the Respondents raise any grievance or dispute regarding their status as casual workers. Their continued acceptance of work on a need-based and rotational basis is indicative of their acquiescence to the terms of engagement. According to the Petitioner, the Complaint instituted in the year 2022 is an afterthought, motivated by a desire to seek regularisation and attendant benefits which are inconsistent with the original terms of engagement. The Respondents, who were the original Complainants, instituted Complaint (ULP) No. 109 of 2022 before the Learned Industrial Court at Thane under Section 28 read with Items 5, 6 and 9 of Schedule IV of the MRTU and PULP Act. By the said complaint, they, inter alia, sought directions against the Petitioner Company to grant permanency to 73 workmen named in Annexure 'A', upon completion of 240 days of service, together with consequential benefits.

4. Mr. Lalit, learned Advocate appearing for the Petitioner Company, who was the original Respondent in the proceedings before the Industrial Court, filed a Written Statement opposing the Complaint. In the said Written Statement, various preliminary objections were raised and the claims were contested on merits. Being aggrieved by the Impugned Order passed by the Learned Industrial Court, the Petitioner Company has instituted the present Writ Petitions. The learned Advocate for the Petitioner submits that, insofar as the question of maintainability of the Complaint in

respect of Complainant Nos. 1 to 6 is concerned, the Learned Industrial Court has itself recorded a finding that their principal grievance relates to termination of services. However, despite arriving at such a conclusion, the Learned Industrial Court has proceeded to grant relief by directing that Complainant Nos. 1 to 6 be placed on a waiting list for future engagement as badli or temporary workmen. It is submitted that such a direction is legally untenable. It is further contended that the Respondents have attempted to contend that Complainant Nos. 1 to 6 stand on the same footing as Complainant Nos. 7 to 12 and are therefore entitled to similar benefits of permanency. According to the Petitioner, such a contention is not borne out from the record and is contrary to the factual position.

**5.** The learned Advocate submits, in the first instance, that a combined reading of Section 5(d) and Section 7 of the MRTU and PULP Act makes it clear that the Learned Industrial Court does not have jurisdiction to adjudicate disputes relating to discharge or dismissal of employees. In the present case, it is an admitted position that Complainant Nos. 1 to 6 were terminated prior to the filing of the Complaint. Any grievance pertaining to such termination would fall within the ambit of Item 1 of Schedule IV and would, therefore, lie exclusively within the jurisdiction of the Labour Court under Section 7 of the said Act. It is further submitted that even at the stage of consideration of interim relief, the consistent stand of the Complainants was that Complainant Nos. 1 to 6 had already been terminated. The order refusing interim relief was not challenged by the Complainants before this

Court or before the Hon'ble Supreme Court. It is further submitted that once it is established that the Learned Industrial Court lacked jurisdiction to adjudicate upon the issue of termination, it could not have granted any ancillary or consequential relief in favour of Complainant Nos. 1 to 6, including a direction to place them on a waiting list. It is a settled principle that where the adjudicating forum lacks jurisdiction over the principal issue, it cannot grant incidental or consequential reliefs arising therefrom. In support of this submission, reliance is placed on the decision in *Nikhila Divyang Mehta & Ors. vs. Hitesh Sangavi & Ors.*, reported in 2025 INSC 485.

6. It is further submitted that, without first adjudicating the foundational issue as to whether Complainant Nos. 1 to 6 continued to be in employment of the Petitioner Company, the Learned Industrial Court has erroneously proceeded to treat them as badli or temporary workmen and has directed that they be placed on a waiting list. Such an approach, according to the Petitioner, is fundamentally erroneous and amounts to granting relief in the absence of determination of essential facts. Once it is held that the issue of termination could not be adjudicated by the Industrial Court, there was no legal basis to treat the said Complainants as continuing in service.

7. The learned Advocate further submits that the failure of the Learned Industrial Court to determine the nature of work performed by Complainant Nos. 7 to 12 vitiates the impugned judgment. It is contended that while granting the relief of permanency, the Industrial Court has not recorded any finding as

to whether the work performed by the said Complainants was of a permanent and perennial nature or merely casual. Reference is made to Rule 3(2)(e) of the Model Standing Orders, which defines a “casual workman” as one engaged in work not connected with the main manufacturing process and which is essentially casual in nature. Similarly, Rule 3(2)(c) defines a “badli workman” as one appointed in the place of a temporarily absent permanent workman. Further, Rule 4-C provides that permanency can be conferred only upon badli or temporary workmen. It is therefore submitted that it was incumbent upon the Industrial Court to determine the correct classification of the workmen before granting permanency, which exercise has not been undertaken.

8. It is further submitted that the impugned judgment suffers from a complete absence of discussion and analysis of the evidence on record. In particular, the testimony of CW-2, Sumeet Kadam, who has admitted that work was assigned on a weekly basis and varied across departments depending upon operational requirements, has not been considered. Likewise, the evidence of CW-3, Niranjan Mhatre, has also not been adverted to. The failure to consider material evidence and to record reasons in respect thereof renders the impugned judgment unsustainable in law. Reliance is placed on the decision in *CCT v. Shukla & Bros., reported in (2010) 4 SCC 785.*

9. It is further submitted that while exercising supervisory jurisdiction, this Court cannot supplement or substitute the reasoning of the court below. The impugned order must be tested on the basis of the reasons recorded therein. In the absence of

cogent, independent, and sustainable reasoning, the impugned order is liable to be set aside. Reliance is placed on the decision in *Jai Singh & Ors. vs. Municipal Corporation of Delhi*, reported in *2010 INSC 642*. On these grounds, it is prayed that the impugned judgment be quashed and set aside, or in the alternative, that the matter be remanded for fresh adjudication in accordance with law.

**10.** Per contra, Ms. Jane Cox, learned Advocate appearing on behalf of the Respondents, has submitted that the Complaint is clearly maintainable under Section 21(1) of the MRTU and PULP Act. It is contended that the said provision restricts individual workmen from prosecuting proceedings only in a situation where there exists a "recognised union" within the meaning of Section 3(13) of the Act. In the present case, it is submitted that no union operating in the establishment has been granted recognition under Chapter III of the Act. In the absence of a recognised union, the embargo contemplated under Section 21(1) does not come into operation, and therefore, the Complaint at the instance of individual workmen is maintainable in law.

**11.** It is further submitted that the Petitioner Company has not, in its pleadings before the Industrial Court, raised any contention regarding the applicability of the Maharashtra Industrial Relations Act, 1946. Any such plea sought to be raised at this stage is beyond the scope of the present proceedings and cannot be entertained. In any event, it is submitted that no material or evidence has been placed on record to demonstrate that the industry in question is a notified industry under the provisions of the said Act. On the contrary, it is pointed out that the settlements entered into by the

Company have been under the Industrial Disputes Act, 1947, which indicates that the said enactment governs the field.

**12.** It is submitted that all the concerned workmen were subjected to a uniform and continuing course of unfair labour practice, inasmuch as they were engaged as casual workmen over extended periods of time and were subjected to artificial breaks and rotational employment, with the object of depriving them of the benefits of permanency. On this basis, it is contended that the Industrial Court has correctly recorded a finding that there exists a common cause of action in favour of all the Complainants.

**13.** On merits, it is submitted that the mere nomenclature or designation of the workmen as “casual” is not conclusive of the true nature of their employment. The Industrial Court is required to examine the actual nature of duties performed and the surrounding circumstances. It is pointed out that the workmen have specifically pleaded that they were engaged in work of a permanent and perennial nature, which was directly connected with the manufacturing activities of the establishment.

**14.** It is further submitted that the workmen have adduced substantial oral as well as documentary evidence in support of their case. Such evidence includes Provident Fund records and bank statements covering the period from 2009 to 2022, which, according to the Respondents, clearly establish that the workmen rendered continuous service over several years. It is contended that the said evidence has been duly proved in accordance with law and demonstrates that the workmen were engaged in regular

and uninterrupted work.

**15.** It is submitted that the Petitioner Company has failed to rebut the documentary evidence produced by the workmen and has not placed any material on record to substantiate its contention that the work was of a purely casual nature. It is further submitted that the failure on the part of the Company to issue appointment letters or to maintain proper employment records lends support to the case of the workmen. The practice of giving artificial breaks is, according to the Respondents, a recognised form of unfair labour practice falling under Item 6 of Schedule IV. Such artificial breaks cannot be equated with lawful termination of service. It is further contended that the jurisdiction of the Industrial Court under Item 6 is wide enough to include the grant of affirmative relief, including directions for continuation in employment. It is further submitted that Section 30 of the MRTU and PULP Act confers wide and plenary powers upon the Industrial Court to grant appropriate reliefs with a view to effectively prevent and remedy unfair labour practices. It is contended that the impugned order is erroneous to the extent that it draws a distinction between two sets of workmen who, according to the Respondents, are similarly situated in all material respects. The denial of permanency benefits to Complainant Nos. 1 to 6, solely on account of artificial breaks, is alleged to be arbitrary and discriminatory.

**16.** It is submitted that relegating the workmen to separate proceedings before the Labour Court would defeat the object and purpose of the MRTU and PULP Act and would lead to multiplicity

of proceedings. On these grounds, it is prayed that the Writ Petition filed by the Petitioner Company be dismissed, and the Writ Petition preferred by the workmen be allowed, with appropriate modification of the impugned order.

REASONS AND ANALYSIS:

**17.** I have heard the learned Advocates for both sides and I have gone through the record with care. The matter raises both questions of maintainability and questions on merits. The pleadings show that the dispute is not a simple one. It concerns a large number of workmen, the nature of their engagement, the effect of alleged artificial breaks, and the power of the Industrial Court to grant relief.

**18.** The first issue which needs careful consideration is about maintainability of the Complaint under Section 21(1) of the MRTU and PULP Act. The Respondents have taken a clear stand that the bar created by this provision will apply only when there exists a recognised union in the establishment. They say that in the present case there is no such recognised union, and therefore individual workmen are entitled to file and prosecute the Complaint. On a plain reading of the provision, this submission appears to be correct. The scheme of Section 21(1) shows that it is not a complete bar against individual workmen. It is a conditional restriction. The condition is the presence of a recognised union under the Act. If such a union exists, then the law prefers that the union should represent the workmen. But if no union is recognised under Chapter III, then the workmen cannot be left without

remedy. In such a situation, the law permits them to approach the Court individually.

**19.** In the present case, the Petitioner has not been able to point out any material to show that a recognised union exists in the establishment. There is no document, no recognition order, and no other record placed before the Court to support such a claim. In absence of this basic requirement, the bar under Section 21(1) cannot be invoked. If the Court were to accept the objection of the Petitioner without such proof, it would mean denying access to justice to the workmen without any legal basis. That cannot be permitted. Therefore, the Complaint filed by the workmen cannot be said to be not maintainable on this ground.

**20.** The next contention raised by the Petitioner is regarding the applicability of the Maharashtra Industrial Relations Act, 1946. This argument, when examined closely, does not help the Petitioner. It is correct that if a particular statute governs an industry, then the jurisdiction of Courts and the remedies available to parties may change according to that statute. However, such a plea cannot be raised in a vague manner or at a late stage. It must be specifically pleaded before the Court of first instance and must be supported by proper material. In the present case, no such clear plea was taken before the Industrial Court. There is no foundation laid in the pleadings. Apart from this, there is also no material placed on record to show that the industry of the Petitioner is a notified industry under the Maharashtra Industrial Relations Act. This aspect is important, because the applicability of that Act depends on such notification. In absence of such proof, the Court

cannot proceed on assumption. On the other hand, the Respondents have pointed out that the settlements entered into by the Company were under the Industrial Disputes Act, 1947. This conduct of the Petitioner Company shows how the Company itself understood the legal position while dealing with its workmen. If the Company was acting under the Industrial Disputes Act, it cannot later turn around and say that another statute applies, without any supporting material. Therefore, the attempt to rely upon the Maharashtra Industrial Relations Act at this stage appears to be an afterthought and does not affect the present proceedings.

**21.** The next issue is whether there exists a common cause of action among the workmen. On this point, the Respondents have made a detailed submission. According to them, all the workmen were engaged as workers for long durations. They say that instead of giving them continuous service, the employer introduced artificial breaks and rotated them in different capacities, only to avoid granting permanency benefits. If such a pattern is established, then the grievance is not personal to one or two workmen. It becomes a collective issue affecting all similarly placed workers. When this submission is seen along with the material placed on record, it appears that the Industrial Court was justified in treating the matter as one involving a common cause of action. The allegations are not different in nature. The method adopted by the employer, as alleged, is also common. The effect of such conduct is also similar for all the workmen. In such circumstances, it would not be proper to split the matter into individual disputes at the threshold stage. The law permits

grouping of such claims when the foundation is the same. Therefore, for the purpose of maintainability and for granting appropriate relief, the approach of the Industrial Court in treating the Complaint as involving a common cause of action does not call for interference.

**22.** I now come to the real dispute on merits. The Petitioner has taken a clear stand that all the concerned workmen were only casual workers. But this submission, by itself, cannot be accepted only because such a label is used. In labour matters, the Court cannot decide the issue only on the basis of how the employer describes the workman. The Court must see what kind of work was actually done, how the engagement continued, for how many years it lasted, and under what conditions the work was taken. Many times, a worker may be called “casual” on paper, but in reality he may be working daily, regularly, and on work which is part of the main activity. Therefore, the label is not final. The Court must find out the real position behind that label.

**23.** In the present case, the Respondents have clearly stated that they were working in connection with the manufacturing process and that their work was of a permanent and perennial nature. This is supported it by producing Provident Fund records and bank statements covering a long period from 2009 to 2022. These documents show that payments were made over several years. This indicates continuity. It does not appear to be a case of occasional engagement. When such long records are placed, they cannot be ignored as isolated documents. On the other side, the Company has not produced strong material to contradict this position. If the

employer says the work was casual, then it must explain how the workmen continued for so many years and received regular payments. In absence of such explanation, the version of the workmen becomes more probable.

**24.** The Petitioner has argued that no appointment letters were issued because the work was casual. This argument does not fully support the Petitioner. In fact, it creates difficulty for it. When no appointment letters are issued, the workmen are left without formal documents and they are required to prove their case through other records. That is what has happened here. The workmen have relied on PF records and bank entries. If the employer has not maintained proper records or has not issued letters, it cannot later take advantage of that lapse. The burden cannot be shifted in this manner. Rather, the absence of proper records raises doubt about the employer's version. It gives an impression that the true nature of employment was not properly disclosed.

**25.** The evidence of CW-2, Sumeet Kadam, is also important in this context. He has admitted that work was given on a weekly basis and that the work used to change depending upon requirement of different departments. This shows that though the work may not have been fixed in one department, the engagement itself was continuing. The workmen were being called again and again. This indicates continuity in a practical sense. It also shows that the control of work remained with the employer and depended on its needs. Such a pattern is not consistent with a purely casual or one-time engagement. The evidence of CW-3,

Niranjan Mhatre, also supports the case regarding the pattern of employment. When such evidence is placed and there is no strong rebuttal, the Court has to look at the overall picture. On such consideration, the Industrial Court was justified in concluding that the engagement was not merely casual in the ordinary sense.

**26.** The Petitioner has relied upon the definitions contained in the Model Standing Orders. It is true that the law distinguishes between casual, temporary, and badli workmen. These distinctions are important. However, they cannot be applied in a mechanical way. The Court must first decide, on facts, in which category the workmen actually fall. Merely calling a worker casual does not make him a casual workman in law. Similarly, a person working for many years cannot automatically be treated as casual. The classification must come from evidence. If the work is connected with the main activity and is of a continuous nature, then the case may go beyond casual employment. If the worker is filling in for a temporary absence, then he may be a badli. Each category has its own consequences. The Industrial Court was required to see these aspects, and on the material available, it has come to a conclusion that the workmen were denied proper status by use of a particular method. That conclusion cannot be said to be without basis.

**27.** Much importance has been given by the Respondents to the issue of artificial breaks. This aspect cannot be ignored. In labour matters, it is known that sometimes breaks are shown in records, but in reality the worker continues to work in the same establishment. Such breaks are not genuine. They are created to show that there is no continuous service. If such a practice is

proved, it falls within unfair labour practice. The employer cannot say that the worker was not in continuous service and at the same time continue to engage him again and again after short gaps. The Court must see the substance and not the form. If the service was kept going through repeated breaks only to deny benefits of permanency, then it becomes a case where the law must intervene. The Industrial Court has treated this conduct as falling within the provisions relating to unfair labour practice, and that approach appears to be justified.

**28.** The Petitioner has argued that before granting permanency, the Industrial Court should have first clearly classified the workmen. This submission is correct in principle. However, its application depends on the facts of the case. Here, the Court had before it evidence showing long years of service, regular nature of work, and use of artificial breaks. The case was not about one or two individuals. It was about a group of workmen whose situation was similar. Once the Court reached a conclusion that the employer had adopted a method to deny them permanency despite continuous work, it was open to the Court to grant appropriate relief. The purpose of the law is to prevent such practices. If the wrong is established, the relief must address that wrong in a real way.

**29.** Section 30 of the MRTU and PULP Act gives wide powers to the Industrial Court. These powers are meant to ensure that unfair labour practices are effectively remedied. If the Court finds that the employer has kept workers as casual only to avoid giving them permanent status, then directing permanency is a form of

correcting that wrong. The submission of the Respondents that they should not be pushed into another round of litigation also has substance. When the facts are already examined and the unfair practice is found, it would not be proper to ask them to start again in another forum.

**30.** The Petitioner's main strength in argument is in relation to Complainant Nos. 1 to 6. From the record, it appears that even the Learned Industrial Court has accepted that their real grievance was about termination of their services. Once such a position is accepted, it is no longer a complaint about conditions of service. It enters into the area of discharge or dismissal. That area is governed by a specific scheme under the law. Different forums are given power to deal with different types of disputes. Therefore, once it is seen that the dispute is essentially about termination, the Court must first see whether it has the power to decide that issue. If the law says that a particular kind of dispute must be decided by a particular forum, then another forum cannot take up that issue by giving it a different name. Calling it an incidental matter does not change its real nature. The Industrial Court cannot indirectly decide a termination dispute when it does not have direct jurisdiction over it. Jurisdiction is fixed by law. It cannot be expanded by adopting a different description of the dispute. Therefore, once it is accepted that the main issue for Complainant Nos. 1 to 6 was termination, the Industrial Court ought to have stopped at that point and examined whether it had the authority to proceed further.

**31.** In this background, the direction given by the Industrial Court to place Complainant Nos. 1 to 6 on a waiting list for future engagement as badli or temporary workmen becomes difficult to support. This direction appears to flow from the assumption that they could still be treated as part of the workforce. But if their services had already come to an end, and if the Court could not go into the question of termination, then it could not have granted such a further direction. The power to give additional or consequential relief comes only when the main issue is properly before the Court. If the main issue itself is outside jurisdiction, then no further direction can be built upon it. Therefore, on this aspect, the submission of the Petitioner requires acceptance.

**32.** At the same time, the argument of the Respondents that Complainant Nos. 1 to 6 should be treated at par with Complainant Nos. 7 to 12 cannot be accepted in a general manner. It may be that their work pattern was similar at some earlier point of time. It may also be that they were engaged in the same way. But legal position does not depend only on similarity of facts. It also depends on the nature of the dispute brought before the Court. If one set of workmen is still in service and complains about denial of permanency, and another set has already been removed and complains about termination, then both stand on different legal footing.

**33.** It was also argued that the entire complaint should be sent to the Labour Court. The complaint does not deal only with termination. It also raises a larger issue of unfair labour practice, including long years of engagement, artificial breaks, and denial of

permanency. So far as Complainant Nos. 7 to 12 are concerned, their grievance clearly falls within the scope of the Industrial Court. They are asserting that they were kept as casual workers despite doing regular work. That issue squarely falls within the provisions dealing with unfair labour practices. Therefore, there is no reason to disturb the findings recorded in their favour, especially when the evidence placed by them has not been effectively countered by the Petitioner. The failure of the Petitioner to bring strong rebuttal evidence assumes importance here. When one side produces documents and oral evidence showing long and continuous engagement, the other side must meet that case with proper material. A mere denial is not sufficient. In absence of convincing rebuttal, the findings of the Industrial Court in respect of Complainant Nos. 7 to 12 do not suffer from any serious error. Therefore, while interference is required in respect of Complainant Nos. 1 to 6 on the ground of jurisdiction, the same is not warranted for the remaining workmen.

**34.** Taking an overall view of the matter, it appears that the impugned order deserves to be partly upheld and partly interfered with. The finding recorded by the Industrial Court regarding unfair labour practice, as well as the direction granting permanency to Complainant Nos. 7 to 12, are supported by the evidence on record and are in accordance with the scheme of the Act. However, the direction in respect of Complainant Nos. 1 to 6, whereby they have been placed on a waiting list for future engagement, cannot be sustained. To that extent, the order cannot be allowed to stand.

**35.** In view of the foregoing discussion and reasons recorded hereinabove, the following order is passed:

(i) The Writ Petitions are partly allowed;

(ii) The impugned judgment and order dated 20 June 2025 passed by the Learned Member, Industrial Court at Thane in Complaint (ULP) No. 109 of 2022 is set aside to the limited extent it directs placement of Complainant Nos. 1 to 6 on a waiting list for future engagement as badli or temporary workmen;

(iii) The relief granted in favour of Complainant Nos. 1 to 6 stands quashed and set aside;

(iv) The impugned judgment and order is otherwise upheld. The finding of unfair labour practice against the Petitioner Company and the direction granting permanency to Complainant Nos. 7 to 12, along with consequential monetary and service benefits, are confirmed;

(v) The Petitioner Company shall comply with the directions in respect of Complainant Nos. 7 to 12, as upheld herein, within a period of ninety days from the date of this order;

(vi) Rule is made partly absolute in the above terms. No order as to costs.

(AMIT BORKAR, J.)