IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9690 OF 2025

Maharashtra Police Academy .. Petitioner

Versus

Bharati Yashwant Salve .. Respondent

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- Mr. Avinash Jalisatgi a/w Mr. T.R. Yadav & Mr. Mulanshu Vora, Advocate for Petitioner.
- Mr. B.K. Barve a/w Mr. Sandeep Barve, Ms. Anushka Barve & Simmy Sebatin i/by B.K. Barve & Co., Advocates for Respondent.

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CORAM : MILIND N. JADHAV, J.

Reserved on : AUGUST 21, 2025.

Pronounced on : OCTOBER 15, 2025

JUDGMENT:

1. Heard Mr. Jalisatgi, learned Advocate for Petitioner and Mr. Barve, learned Advocate for Respondent.

2. The present Writ Petition is filed by Petitioner challenging Judgment 09.02.2025 passed by Industrial Court, Nasik in Revision Application (ULP) No.13 of 2024. The Judgment dated 09.02.2025 is appended below Exhibit 'P' below at page no. - 271.

3. Briefly stated, Petitioner – Academy was established by State Government to train freshly recruited as well as serving police officers of all ranks in accordance with Rules and manuals notified by the State Government from time to time. On 01.09.2010 Petitioner appointed

Respondent as a Computer Operator temporarily on a daily wage basis and issued her an appointment letter. On 05.02.2016 a Government Resolution notified by Home Department granted autonomy to Petitioner, directed its registration under the Society Registration Act, 1860 and approved Memorandum of Association and Rules. On 01.04.2016 Petitioner duly registered itself under Society Registration Act, 1860 and on 05.05.2016 under Bombay Public Trusts, 1950.

3.1. On 27/09/2016 Petitioner resolved to fill in vacant posts of Chief Clerk, Higher Grade Stenographer and Lower Grade Stenographer and in case those posts are filled by temporary daily wage employees then they are to be permanently appointed and their salaries be fixed according to pay scale.

3.2. Respondent orally requested Petitioners to regularise her appointment but to no avail. On 21.12.2017 Respondent addressed a letter to Petitioners seeking permanent appointment as she worked continuously for more than 240 days in a year for nearly 8 years however she received no response. On 11.01.2018, Petitioners terminated the services of Respondent without notice or retrenchment compensation nor did they publish any seniority list before they terminated her services and retained services of junior employees.

3.3. Respondent filed Complaint (ULP) No. 6 of 2018 under Section 28 read with Item 1(a), (b), (d), (f) and (g) of the

Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short **"MRTU & PULP Act"**) challenging the termination of her services and seeking reinstatement and continuity of service with full back wages. The complaint came to be allowed by Judgment dated 26.07.2022 passed by the Labour Court. Being aggrieved, Petitioners filed Revision Application No. 8 of 2022 in the Industrial Court, Nasik which was allowed by judgment dated 18.01.2024 remanding the complaint back to Labour Court. On 19.03.2024, Labour Court once again allowed the complaint, against which Petitioners filed Revision Application (ULP) No. 13 of 2024 which came to be dismissed by order dated 09.05.2025. Hence the present Writ Petition.

4. Mr. Jalisatgi, learned advocate for Petitioners would submit Petitioner – Academy was established in 1906 under Indian Police Act, 1861 nomenclatured as Central Police Training School and was subsequently renamed to Maharashtra Police Academy in 1989 by State Government. He would submit that Petitioner – Academy is part of the Police establishment performing sovereign and statutory functions i.e. to impart training to freshly recruited as well as serving police officers. He would submit that Petitioner – Academy is funded by and under the control of State Government and that its Chairman, Deputy Chairman, Members, Directors and Executive Directors are high ranking police officers and government servants therefore

Petitioner – Academy is not an independent body and is fully controlled and instructed by State Government.

4.1. He would submit that as certain posts for clerical work were vacant, Respondent had showed interest in joining services as clerk and on 01.09.2010, Respondent was appointed as a Computer Operator on ad – hoc daily wage basis. He would submit that Petitioner – Academy did not publish any advertisement, conduct interview nor was any written application submitted to appoint Respondent hence her appointment was illegal and invalid in law.

4.2. He would submit that on 05.02.2016, State Government issued Government Resolution granting autonomy to Petitioner – Academy only in respect of training, curriculum, examination and evaluation. He would submit that Petitioner – Academy still remains under control of the State Government and Government Resolution explicitly states that as it was inconvenient for Petitioner – Academy to constantly seek permission to change curriculum and training plans hence State Government granted limited autonomy to Petitioner. He would submit that Petitioner - Academy duly registered itself under the Society Registration Act, 1860 and Bombay Public Trusts Act, 1950.

4.3. He would submit that recruiting of certain staff members to perform clerical work would not embellish the sovereign nature of Petitioner – Academy and would not bring it within the ambit of

"industry" under Industrial Disputes Act, 1947. He would submit that Petitioner – Academy is an integral part of the Police Department and was established under the Indian Police Act, 1861 performing sovereign and regal functions of imparting training to police officers to maintain law and order. He would submit that this function cannot be outsourced to private agencies and can only be performed under instructions of State Government.

4.4. In support of his submission, Mr. Jalisatgi would rely on the decision of the Supreme Court in the case of ***State of UP V/s. Jai Bir Singh***[1] to contend that character of an institution must be considered to determine if it falls within the purview of industry:-

> *"37. A worker-oriented approach in construing the definition of industry, unmindful of the interest of the employer or the owner of the industry and the public who are the ultimate beneficiaries, would be a one-sided approach and not in accordance with the provisions of the Act."*

4.5. He would submit that Rule 82, 84, and 90 of the Maharashtra Police Training Manual, mandate training of freshly recruited Assistant Superintendent of Police and Deputy Superintendent of Police as well as various other ranks of police officers and officers of other government agencies. Rule 92 of the Police Manual lays down the duties and powers of staff at Petitioner – Academy. He would submit that Rule 6 of Police Sub – Inspector (Recruitment) Rules, 1995 mandate training of all Police Sub –

1 (2005) 5 SCC 1

Inspector rank officers at Petitioner – Academy.

4.6. In support of his submission, Mr. Jalisatgi would rely on the decision of the Supreme Court in the case of ***Banglore Water Supply and Sewerage Board V/s. A. Rajappa and Others***[2] to contend that Petitioner – Academy performs function of the State and hence cannot fall within the purview of Industry:-

> *"37. The limiting role of Banerji must also be noticed so that a total view is gained. For instance, "analogous to trade or business" cuts down "under taking", a word of fantastic sweep. Spiritual undertakings, casual undertakings, domestic undertakings, war waging, policing, justicing, legislating, tax collecting and the like are, prima facie, pushed out. Wars are not merchantable, nor justice saleable, nor divine grace marketable. So, the problem shifts to what is "analogous to trade or business". As we proceed to the next set of cases we come upon the annotation of other expressions like "calling" and get to grips with the specific organisations which call for identification in the several appeals before us."*
>
> *xxxxxx*
>
> *"140. "Industry', as defined in Section 2(j) and explained in Banerji, has a wide import.*
>
> > *"(a) Where (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical)(iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making, on a large scale prasad or food), prima facie, there is an 'industry' in that enterprise.*
> >
> > *(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.*
> >
> > *(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.*
> >
> > *(d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking."*

2 (1978) 2 SCC 213

xxxxxx

143.The dominant nature test:

"(a) Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom are not 'workmen' as in the University of Delhi case [University of Delhi v. Ramlfath, (1964) 2 SCR 703 : AIR 1963 SC 1873 : (1963) 2 Lab LJ 335] or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur will be the true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status.

(b) Notwithstanding the previous clauses, sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by government or statutory bodies.(c) Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within Section 2(j).

(d) Constitutional and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby."

4.7. He would submit Petitioner – Academy terminated services of Respondent. He would submit that Respondent agitated several rounds of litigation before Labour Court and Industrial Court and impugned orders passed by these courts are bad in law, illegal, untenable and liable to be quashed and set aside. He would submit that Petitioner -Academy does not fall into the purview of "industry", hence Respondent approached the wrong forum and instead she should have approached the Maharashtra Administrative Tribunal. He would also submit that Respondent was employed on a temporary basis hence her services were liable to termination without notice. Therefore the impugned order dated 09.05.2025 passed by Industrial Court is illegal, bad in law, passed without due consideration of

material on record and hence deserves to be set aside.

4.8. Mr. Jalisatgi would further rely on various decisions of the Supreme Court and various other High Courts to contend that the impugned judgment deserved to be set aside in view of the ratio held in the following cases:-

(1) *D.N. Banerji V/s. P.R. Mukherjee and Others*[3]*;*

(2) *State of Bombay and Others V/s. Hospital Mazdoor Sabha and Thers*[4]*;*

(3) *Corporation Of The City of Nagpur V/s. 1. Employees (IN CA NO. 143 of 1959) 2. Fulsing Mistry and Others (IN CA NO. 545 of 1958)* [5]*;*

(4) *Physical Research Laboratory V/s. K.G Sharma* [6]*;*

(5) *Union of India V/s. Jai Narain Singh* [7]*;*

(6) *Bombay Telephone Canteen V/s. Union of India* [8]*;*

(7) *Executive Enginerr V/s. K. Somashetty and Ors*[9]*;*

(8) *Coir Board Ernakulam V/s. Indira Devi P.S. and Ors.*[10]*;*

(9) *Coir Board Ernakulam V/s. Indira Devi P.S and Ors.*[11]*;*

(10) *Agricultural Produce Market Committee V/s.*

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3 (1952) 2 SCC 619
4 1960 SCC OnLine 44
5 1960 2 SCR 942
6 (1997) 4 SCC 257
7 1995 Supp (4) SCC 672
8 (1997) 6 SCC 723
9 (1997) 5 SCC 434
10 (1998) 3 SCC 259
11 (2000) 1 SCC 224

Ashok Harikurni [12]*;*

(11) *State of Gujrat V/s. Pratamsingh Narasinh Parmar*[13]*;*

(12) *Ashok Kumar V/s. Union of India*[14]*;*

(13) *Som Vihar Apartment Owner's Housing Maintenance Society Ltd. V/s. Workmen c/o Indian Engg. & Genl. Mazdoor*[15]*;*

(14) *Md. Manjur and Others V/s. Shyam Kunj Occupants' Society & Ors.*[16]*;*

(15) *Shantivan – II Co-op Housing Society V/s. Manjula Govinda Mahinda (Smt.) and another*[17]*;*

(16) *Secretary, State of Karnataka v/s Uma Devi*[18]*;*

(17) *Union of India V/s. Ilmo Devi*[19]*.*

5. ***PER CONTRA,*** Mr. Barve, learned Advocate for Respondent would submit that the impugned order dated 09.05.2025 passed by the Industrial Court is a well reasoned order and deserves to be upheld. He would submit that Respondent was interviewed by Petitioner – Academy for the post of Clerk – Typist cum Computer Operator and was appointed on 27.01.2010, however subsequently on 01.09.2010 appointment letter was issued to her. He would submit that she

12 (2000) 8 SCC 61
13 (2001)9 SCC 713
14 (2024) SCC OnLine J&K 129
15 (2002) 9 SCC 652
16 2004 SCC OnLine 1659
17 (2018) 3 CLR 342
18 (2006) 4 SCC 1
19 (2021) 20 SCC 290

worked for 240 days per year for a period of nearly 8 years without any break or interruption in service. He would submit that on perusal of appointment order dated 01.09.2010, it will be seen that Respondent's employment may have been temporary, however no period of employment was mentioned. He would submit that Respondent was a well qualified candidate having necessary government certifications to hold the relevant post, hence she ought to have been granted permanency.

5.1. He would submit that on 05.02.2016, Government Notification was issued by State Government granting autonomy to Petitioner – Academy and directing its registration under Society Registration Act and Bombay Public Trusts Act. He would submit that Petitioner – Academy duly registered itself and was issued registration certificates under Society Registration Act and Bombay Public Trusts Act respectively and notified Articles of Association and Memorandum of Association. He would submit that Resolution was passed by Petitioner – Academy resolving to fill up vacant stenographer posts and if daily wage workers had occupied such posts, they were required to be made permanent. He would submit that on several occasions Respondent orally requested Petitioner – Academy to make her permanent and on 21.12.2017, Respondent addressed letter to Petitioner – Academy with the same request however no response was received. He would submit that Petitioner – Academy did not

appreciate Respondent's requests and instead issued termination letters dated 11.01.2018 and 12.01.2018 to Respondent without notice, inquiry, chargesheet or even retrenchment compensation.

5.2. He would submit that Petitioner – Academy recruited three junior persons to the post of Stenographer and hence these actions of Petitioner – Academy amounted to unfair labour practice and breach of Section 25-G of Industrial Disputes Act, 1947 (for short "**ID Act"**) and when junior employees are retained in service, the principle of last come first go is violated and termination is liable to be set aside. He would submit that category and seniority of employee has to be considered before retrenchment orders are issued irrespective of the nature of work performed.

5.3. He would submit that Petitioner – Academy adduced no evidence to show that they do not fall into the definition of industry neither have they cross examined Respondent to that effect. He would submit that Respondent has adduced sufficient evidence to show that Petitioner is an industry and is independent in nature. Hence evidence adduced by Respondent remained unchallenged.

5.4. He would submit that training imparted by Petitioner – Academy is not only restricted to police officers and other law enforcement officers but also includes training of private security agencies and civilian security agencies. He would submit that

Petitioner - Academy charges high fees from these agencies to impart training. He would submit that in addition to training Petitioner – Academy teaches horse riding, has a fully functional canteen, library, swimming pool and hostels. He would submit that Petitioner – Academy charges high deposits and fees are charged to avail of these facilities and therefore tests laid down in ***Banglore Water Supply and Sewerage Board V/s. A. Rajappa and Others (supra)*** are fulfilled hence Petitioner – Academy falls under the purview of "Industry" as enumerated under the ID Act.

5.5. He would rely on the definition of retrenchment under Section 2(oo) of ID Act to show that termination of services of Respondent amounts to retrenchment and there are conditions precedent to retrenchment which are enumerated under Section 25-F of ID Act. He would submit that retrenchment is comprehensive in nature and covers all actions of management to end employment of any employee. He would submit that even if initial appointment of workman is illegal or fraudulent, conditions precedent to retrenchment under Section 25-F of ID Act need to be followed and inquiry into appointment is necessary.

5.6. He would submit that no workman who is in continuous service for at least one year shall be retrenched without one month's notice in writing with reasons for retrenchment. He would also submit

that if any workman has worked 240 days in one year, his service cannot be terminated without issuance of notice or payment of retrenchment compensation. He would submit that in the present case, Respondent has worked in Petitioner – Academy for nearly 8 years and hence Petitioner – Academy has engaged in unfair labour practices.

5.7. In support of his submissions, Mr. Barve would rely on various decisions of the Supreme Court and this Court to contend that the impugned judgment is just, correct in law and deserves to be upheld in view of the ratio laid down in the following cases ***(i)Ramesh Kumar V/s. State of Haryana[20] and (ii) Sarv Shramik Sangh V/s. Thane Municipal Corporation[21].***

6. I have heard Mr. Jalisatgi, learned Advocate for Petitioner and Mr. Barve, learned Advocate appearing on behalf of Respondent and with their able assistance perused the record of the case. Submissions made by learned Advocates at the bar have received due consideration of the Court.

7. At the outset, points for determination in the present Petition are whether (i) whether Petitioner – Academy falls under the purview of industry as defined under Section 2(j) of ID Act (ii) whether Respondent fall into the purview of workman under Section 2(s) of ID Act and (iii) whether impugned order of the Industrial Court is passed

20 (2010) 2 SCC 543
21 2025 SCC OnLine 2845

incorrectly, untenable in law and deserves to be set aside. It is seen that present Petition arises from order dated 09.05.2025 being passed by Industrial Court in Revision Application (ULP) No.13 of 2024 borne out of multiple rounds of litigation in the lower forums.

8. It is seen that Respondent led evidence before the Labour Court marked as Exhibit U-23 and she was duly cross examined by Petitioner – Academy. It is seen from the deposition of Respondent that she was employed as Clerk / Typist in Petitioner – Academy as she possessed requisite knowledge of computers and government certification in typing. She was employed from 27.01.2010 and worked at a daily wage of Rs.100/- per day. She received appointment letter on 01.09.2010. It is seen that Respondent addressed multiple correspondence with Petitioner to increase her salary due to heavy workload but to no avail. It is seen that Respondent worked for more than 240 days a year for more than seven years at the time of her dismissal. It is also seen that as per State Government Notification dated 05.02.2016, Petitioner – Academy was made autonomous and directed to regularize the appointment of daily wage staff instead of terminating their appointments. This aspect is crucial. It is seen that Respondent orally requested Petitioner - Academy to regularize her appoint and addressed letter dated 21.12.2017 with the same request but to no avail. Thereafter Petitioner – Academy terminated her appointment in contravention of law against which Respondent

approached the Labour Court seeking reinstatement and back wages.

9. It is seen that Section 2(s) of ID Act defines workman and the same is reproduced below:-

> *[(s) workman means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person--*
>
> *(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or*
>
> *(ii) who is employed in the police service or as an officer or other employee of a prison; or*
>
> *(iii) who is employed mainly in a managerial or administrative capacity; or*
>
> *(iv) who, being employed in a supervisory capacity, draws wages exceeding [59][ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]*

9.1. It is seen that, Respondent was interviewed by an officer of Petitioner - Academy and subsequently appointed to the post of computer operation on a daily wage basis at the rate of Rs.100/- per day by appointment order dated 01.09.2010. It is seen that jobs assigned to Petitioner were clerical and mainly involved typing. It is seen that Respondent was not performing duties of a police officer neither was she employed in the police service. It is seen that Respondent worked for more than 240 days a year and was employed

for nearly 8 years. Hence Respondent falls into definition of workman as defined under Section 2(s) of ID Act.

10. Admittedly, Petitioner – Academy runs various facilities such as horse riding training facility, canteen where eatables are prepared for sale, swimming pool, library, hostels and hospital with an out - patient department. It is Respondent's case that aforementioned facilities are available for patronage on payment of high deposit amounts and fees. It is also Respondent's case that Petitioner – Academy imparts training to private security agencies in exchange for high fees. Therefore, considering the aforementioned facts, Petitioner - Academy cannot be strictly performing sovereign functions.

11. It is seen that Government Resolution dated 05.02.2016 declared Petitioner – Academy to be autonomous from State Government strictly to the extent of training, preparation of training, curriculum, examination and evaluation however the aforementioned resolution also directed registration of Petitioner – Academy under Societies Registration Act, 1860 and Bombay Public Trusts Act, 1950. It is seen that registration certificates are appended to Exhibit "D" and "E" at page No. 56 and 57 respectively. It is seen that in furtherance to Government Notification, Petitioner – Academy published Articles of Association and Memorandum of Association which are appended below at Exhibit "F" on page No. 58. It is seen that from Resolution No.

2 at page No. 74 of Petition, Petitioner – Academy resolved to fill in vacancy of Chief Clerk, Lower Grade Stenographer and High Grade Stenographer and if such posts are occupied by workers on daily wage / contract basis, they are to be duly appointed and salaries be fixed according to pay scale.

12. It is seen that on page No. 73 of Petition, Executive Committee of Petitioner – Academy apprehended litigation before forums under the ID Act if posts occupied throughout the establishment are occupied by external means and not by regularization of daily wage / contract workers currently working in those posts. It is also seen that Executive Committee arrived at a consensus that if these workers are regularized and if salaries are paid to them through pay scale, then financial burden on Petitioner – Academy will reduce. It is seen that decision was passed to appoint daily wage workers working as office bearers to vacant posts in Petitioner – Academy and remaining posts would be occupied through selection mechanism.

13. Hence, it is seen that from Government Notification and according to Petitioner – Academy's own Resolution, minutes of meeting of Executive Committee and Articles of Association there was clearly a shortage of staff which was to be filled up by daily wage workers who were to be made permanent after autonomous status was

granted. It is seen that by Petitioner – Academy's own Executive Committee's decisions and resolution, Respondent should have been given permanency status and salary as per scale. On the basis of documentary evidence and oral evidence placed on record, Respondent was not only possessed the requisite qualifications for the post of Stenographer but also had completed 240 days of continuous service per year for a period of almost 8 years hence her appointment deserved to be made permanent. Hence notwithstanding Petitioner – Academy status of industry, Respondent was entitled to permanency with salary as per regular pay scale. This is one of the most important circumstance. One the one hand Petitioner cannot recruit Selection grade staff and on the other continue exploiting the existing daily wage staff for years when they are all performing the same work.

14. In order to determine whether Petitioner - Academy falls under the purview of Industry, attention is drawn to decision of Supreme Court in the case of ***Banglore Water Supply and Sewerage Board V/s. A. Rajappa and Others (supra)*** which is relied upon by Mr. Jalisatgi and Mr. Barve both in their respective submissions. I would like to quote paragraph Nos. 140 and 143 of the aforementioned decision of the Supreme Court in order to decide this point:-

> *"140. "Industry', as defined in Section 2(j) and explained in Banerji, has a wide import.*
>
> > *"(a) Where (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and*

> *substantial element is chimerical)(iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making, on a large scale prasad or food), prima facie, there is an 'industry' in that enterprise.*
>
> *(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.*
>
> *(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.*
>
> *(d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking."*
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> *xxxxxx*
>
> *143.The dominant nature test:*
>
> *"(a) Where a complex of activities, some of which qualify for exemption, others not, involves employees on the total undertaking, some of whom are not 'workmen' as in the University of Delhi case [University of Delhi v. Ramlfath, (1964) 2 SCR 703 : AIR 1963 SC 1873 : (1963) 2 Lab LJ 335] or some departments are not productive of goods and services if isolated, even then, the predominant nature of the services and the integrated nature of the departments as explained in the Corporation of Nagpur will be the true test. The whole undertaking will be 'industry' although those who are not 'workmen' by definition may not benefit by the status.*
>
> *(b) Notwithstanding the previous clauses, sovereign functions, strictly understood, (alone) qualify for exemption, not the welfare activities or economic adventures undertaken by government or statutory bodies.(c) Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within Section 2(j).*
>
> *(d) Constitutional and competently enacted legislative provisions may well remove from the scope of the Act categories which otherwise may be covered thereby."*

15. It is seen that Supreme Court in the aforementioned paragraphs elucidated on the meaning of industry as defined under the ID Act. It is seen that Petitioner - Academy falls squarely into the

criteria laid down in the aforementioned judgement. Admittedly, Petitioner - Academy was established to train police officers of all ranks and other Central and State Government officers and hence in this regard they may be performing sovereign functions however it is not disputed that Petitioner - Academy also conducts training of private security agencies in exchange for fees. This training is not performed in exercise of sovereign functions hence Petitioner - Academy falls within the purview of industry as defined under Section 2(j) of ID Act.

16. It is also seen that Respondent in her examination – in – chief deposed that Petitioner - Academy also runs library, swimming pool, hospital with an outpatient department, canteen and hostels which charge fees from its patrons. It is also seen that in cross examination of Respondent, Petitioner - Academy failed to disprove her statements in this regard neither has it examined any of its witnesses before the lower forums, hence it is admitted that since fees are charged from patrons of these facilities, Petitioner - Academy organizes systematic activities with cooperation of employees to produce goods and services for human satisfaction while making profits with clear and definite cooperation between employer and workmen in order to perform duties pursuant to successful fulfillment of activities undertaken at Petitioner - Academy. Hence Petitioner - Academy falls within the purview of industry as defined under Section 2(j) of ID Act.

17. It is seen that Petitioner - Academy issued termination letter dated 11.01.2018 appended below at Exhibit "B" on page No. 49 of Petition. It is seen that no reason for termination has been assigned to Respondent by Petitioner – Academy neither has any retrenchment compensation been paid to her. It is seen that no termination notice has been issued to Respondent denying her opportunity of hearing. Section 25F of ID Act is reproduced below :-

> *[25F. Conditions precedent to retrenchment of workmen.--No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until--*
>
> *(a) the workman has been given one months notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;*
>
> *2* * * * **
>
> *(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 3[for every completed year of continuous service] or any part thereof in excess of six months; and*
>
> *(c) notice in the prescribed manner is served on the appropriate Government 4[or such authority as may be specified by the appropriate Government by notification in the Official Gazette].]*

18. In this regard and in facts of the present case, I would like to quote paragraph Nos. 17 and 18 of a decision of Supreme Court in the case of ***Ramesh Kumar V/s. State of Haryana (supra)*** decided on 13.01.2010 and relied upon by Mr. Barve which aptly describes the facts of the matter before me and guides what the Court will have to do in such a case. The said paragraphs read as under:-

> *17. We are conscious of the fact that an appointment on public post cannot be made in contravention of recruitment rules and constitutional scheme of employment. However, in view of the materials placed before the Labour Court and in this Court, we are satisfied that the said principle would not apply in the case on hand. As rightly pointed out, the appellant has not prayed for regularisation but only for reinstatement with continuity of service for which he is legally entitled.*
>
> *18. It is to be noted in the case of termination of casual employee what is required to be seen is whether a workman has completed 240 days in the preceding 12 months or not. If sufficient materials are shown that the workman has completed 240 days then his service cannot be terminated without giving notice or compensation in lieu of it in terms of Section 25-F. The High Court failed to appreciate that in the present case the appellant has completed 240 days in the preceding 12 months and no notice or compensation in lieu of it was given to him, in such circumstances his termination was illegal. All the decisions relied on by the High Court are not applicable to the case on hand more particularly, in view of the specific factual finding by the Labour Court.*

19. The words of Supreme Court need reiteration in the present scenario viz. retrenchment of workmen without adherence to law. It is seen that legislature has enacted a specific provision in Section 25F ID Act which lays down a precursor to retrenchment of any workman. It is seen that in order to avoid ambiguity and discrimination between permanent workmen and daily / wage workmen, the provision clearly lays down the condition that workmen in continuous service for not less than one year will be entitled to benefit of this provision. In the present case, Respondent is admittedly in continuous service with Petitioner - Academy for more than 8 years and she has completed requisite 240 days of continuous service hence she was entitled to notice before retrenchment and compensation.

20. The Supreme Court in a very recent judgment of ***Dharam Singh vs State of UP*** [22] has held that when State employs workers, their employment is to be understood as being done by a constitutional employer and in this regard Paragraph Nos. 1, 13, 17, 18 and 20 are reproduced herein below:-

> ***1.*** *When public institutions depend, day after day, on the same hands to perform permanent tasks, equity demands that those tasks are placed on sanctioned posts, and those workers are treated with fairness and dignity. The controversy before us is not about rewarding irregular employment. It is about whether years of ad hoc engagement, defended by shifting excuses and pleas of financial strain, can be used to deny the rights of those who have kept public institutions running. We resolve it by insisting that public employment should be organised with fairness, reasoned decision making, and respect for the dignity of work.*
>
> *Xxxxxx*
>
> ***13.*** *As we have observed in both Jaggo (Supra) and Shripal (Supra), outsourcing cannot become a convenient shield to perpetuate precariousness and to sidestep fair engagement practices where the work is inherently perennial. The Commission's further contention that the appellants are not "full-time" employees but continue only by virtue of interim orders also does not advance their case. That interim protection was granted precisely because of the long history of engagement and the pendency of the challenge to the State's refusals. It neither creates rights that did not exist nor erases entitlements that may arise upon a proper adjudication of the legality of those refusals.*
>
> *xxxxxx*
>
> ***17.*** *Before concluding, we think it necessary to recall that the State (here referring to both the Union and the State governments) is not a mere market participant but a constitutional employer. It cannot balance budgets on the backs of those who perform the most basic and recurring public functions. Where work recurs day after day and year after year, the establishment must reflect that reality in its sanctioned strength and engagement practices. The long-term extraction of regular labour under temporary labels corrodes confidence in public administration and offends the promise of equal protection. Financial stringency certainly has a place in public policy, but it is not a talisman that overrides fairness, reason and the duty to organise work on lawful lines.*

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> ***18.*** *Moreover, it must necessarily be noted that "ad-hocism" thrives where administration is opaque. The State Departments must keep and produce accurate establishment registers, muster rolls and outsourcing arrangements, and they must explain, with evidence, why they prefer precarious engagement over sanctioned posts where the work is perennial. If "constraint" is invoked, the record should show what alternatives were considered, why similarly placed workers were treated differently, and how the chosen course aligns with Articles 14,16 and 21 of the Constitution of India. Sensitivity to the human consequences of prolonged insecurity is not sentimentality. It is a constitutional discipline that should inform every decision affecting those who keep public offices running.*
>
> ***20.****We have framed these directions comprehensively because, case after case, orders of this Court in such matters have been met with fresh technicalities, rolling "reconsiderations," and administrative drift which further prolongs the insecurity for those who have already laboured for years on daily wages. Therefore, we have learned that Justice in such cases cannot rest on simpliciter directions, but it demands imposition of clear duties, fixed timelines, and verifiable compliance. As a constitutional employer, the State is held to a higher standard and therefore it must organise its perennial workers on a sanctioned footing, create a budget for lawful engagement, and implement judicial directions in letter and spirit. Delay to follow these obligations is not mere negligence but rather it is a conscious method of denial that erodes livelihoods and dignity for these workers. The operative scheme we have set here comprising of creation of supernumerary posts, full regularization, subsequent financial benefits, and a sworn affidavit of compliance, is therefore a pathway designed to convert rights into outcomes and to reaffirm that fairness in engagement and transparency in administration are not matters of grace, but obligations under Articles14,1 6 and 21of the Constitution of India."*

21. Taking into account the overall circumstances, the impugned judgment dated 09.05.2025 in my opinion is therefore a well reasoned justified, giving cogent and reasoned findings in paragraph Nos.10 to 20 thereof. The said judgement dated 09.05.2025 for all the above observations, reasons and findings cannot be faulted with and does not call for any interference of this Court. Hence the Petition Fails.

22. The Judgment dated 09.05.2025 is upheld and confirmed. Resultantly, Writ Petition fails. Petitioner - Academy is directed to reinstate Respondent in services of Petitioner - Academy as High Grade Stenographer within a period of two weeks from the date of this judgment and grant her continuity in service alongwith full advantages. It is directed that Respondent will be entitled to backwages / differential wages and all benefits and status of permanency to be issued by Respondent. Petitioner – Academy shall comply with the directions contained in this Judgment.

23. Writ Petition is dismissed.

[MILIND N. JADHAV, J.]

24. After the judgment is pronounced, learned Advocate for Petitioner would persuade the Court to stay the effect of this judgment for a period of six weeks from today to enable the Petitioner to test its validity in the Supreme Court. Considering the issue involved in the present case, I am inclined to allow the request made by the learned Advocate for Petitioner.

25. Simultaneously a request is made to Court by learned Advocate for Respondent employee that certain monies have been deposited in this Court pertaining to backwages / differential wages. He would submit that since the said deposit has already been made, this Court be pleased to allow the Respondent to withdraw the same as

a consequence of this judgment. However considering that I have allowed the request of the learned Advocate for Petitioner for stay of the judgment for a period of six weeks from today, leave and liberty is granted to Respondent to make an appropriate Application for seeking withdrawal of the amounts which are deposited which shall be duly considered by Court accordingly after hearing the Petitioner.

[MILIND N. JADHAV, J.]

Ajay

AJAY TRAMBAK UGALMUGALE

Digitally signed by AJAY TRAMBAK UGALMUGALE
Date: 2025.10.15 18:24:29 +0530