

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2468 OF 1995

Ashok Haribha Gurme,
Age 35 Years, Occ. Service,
R/o Ganjurwadi, Tq. Ahmedpur,
District Latur.

..Petitioner

Versus

1. The State of Maharashtra

2. Executive Engineer,
Latur Minor Irrigation Division,
Latur.

3. Dy. Engineer,
Latur Minor Irrigation
Sub-Division, Latur.

..Respondents

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AGP for Respondents: Shri V.G.Shelke

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CORAM : RAVINDRA V. GHUGE, J.
Dated: December 03, 2015

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ORAL JUDGMENT :-

1. This petition was admitted on 13.3.1997. No interim relief was granted.

2. None appears for the petitioner today. Though I had posted this matter today for dismissal, by order dated 16.11.2015, I am deciding this petition on its merits.

3. The petitioner had filed Complaint (ULP) No.21 of 1987. It was specifically averred that the petitioner was terminated with effect from

21.1.1987 without any notice and without compliance of Section 25-F of the Industrial Disputes Act. The Complaint was filed under item 5 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("the said Act "). The said complaint was dismissed by the impugned judgment dated 5.8.1994.

4. I find that Sections 4 and 5 of the 1971 Act define the "Industrial Court" and its "Duties" as under:-

"Section 4 - Industrial Court.

(1) The State Government shall by notification in the Official Gazette, constitute an Industrial Court.

(2) The Industrial Court shall consist of not less than three members, one of whom shall be the President.

(3) Every member of the Industrial Court shall be a person who is not connected with the complaint referred to that Court, or with any industry directly affected by such complaint:

Provided that, every member shall be deemed to be connected with a complaint or with an industry by reason of his having shares in a company which is connected with, or likely to be affected by, such complaint, unless he discloses to the State Government the nature and extent of the shares held by him in such company and in the opinion of the State Government recorded in writing, such member is not connected with the complaint, or the industry.

(4) Every member of the Industrial Court shall be a person who is or

has been a Judge of a High Court or is eligible for being appointed a Judge of such Court:

Provided that, one member may be a person who is not so eligible, if he possesses in the opinion of the State Government expert knowledge of labour or industrial matters.

Section 5 - Duties of Industrial Court.

It shall be the duty of the Industrial Court,-

- (a) to decide an application by a union for grant of recognition to it;*
- (b) to decide an application by a union for grant of recognition to it in place of a union which has already been recognised under this Act;*
- (c) to decide an application from another union or an employer for withdrawal or cancellation of the recognition of a union;*
- (d) to decide complaints relating to unfair labour practices except unfair labour practices falling in Item 1 of Schedule IV;*
- (e) to assign work, and to give directions, to the Investigating Officers in matters of verification of membership of unions, and investigation of complaints relating to unfair labour practices;*
- (f) to decide references made to it on any point of law either by any civil or criminal court; and*
- (g) to decide appeals under section 42. ”*

5. Section 6 and 7 of the 1971 Act define the "Labour Court" and its "Duties" as under:-

"Section 6 - Labour Court.

The State Government shall, by notification in the Official Gazette, constitute one or more Labour Courts, having jurisdiction in such local areas, as may be specified in such notification, and shall appoint persons having the prescribed qualifications to preside over such Courts:

Provided that, no person shall be so appointed, unless he possesses qualifications (other than the qualification of age), prescribed under Article 234 of the Constitution for being eligible to enter the judicial service of the State of Maharashtra; and is not more than sixty years of age.

" Section 7 - Duties of Labour Court

It shall be the duty of the Labour Court to decide complaints relating to unfair labour practices described in Item 1 of Schedule IV and to try offences punishable under this Act."

6. Item 5 of Schedule IV of the 1971 Act reads as under:-

"5. To show favouritism or partiality to one set of workers, regardless of merits."

7. The Industrial Court was not empowered to decide the issue of termination of the petitioner under item 5 of Schedule IV of 1971 Act. In these circumstances, the Industrial Court rightly dismissed the complaint by the impugned judgment.

8. This petition is devoid of merits and is, therefore, dismissed.

9. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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