

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

LETTERS PATENT APPEAL NO.49 OF 2008
IN
REVIEW PETITION NO.136 OF 2007
IN
WRIT PETITION NO.3950 OF 2007

The Superintending Engineer,
Jalgaon Irrigation Project Circle
Jalgaon and others

Petitioners

Versus

Madhukar S/o Lotu Patil

Respondent

Mr.D.R.Shelke & Mrs S.D Shelke advocates for the appellants
Mr.S.R. Patil advocate for Respondent

CORAM : R.M. BORDE &
P.R. BORA, JJ

Dated : 10th March, 2015.

PER COURT :-

1 The appellants are objecting the order passed by the single Judge of this Court in Review Petition No.136/2007 decided on 25.2.2008.

2 The respondent employee approached the Industrial Court, seeking a declaration in respect of commission of unfair labour practices by his employer, appellants herein. The Industrial Court, on consideration of the contentions of the complainant proceeded to hold that, the respondents have committed unfair labour practices under items 5, 6, 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions & Prevention of Unfair

Labour Practices Act, 1971 (MRTU & PULP Act) and the respondents - appellants herein were directed to cease and desist from continuance of the same. Further direction was issued to the appellants herein / respondents before the Industrial Court to submit a fresh proposal for taking the complainant on CRTE as Telephone Operator and ensure sanction of such appointment, considering the provisions of Kalelkar award which is applicable to the present case and to pay the complainant the monetary benefits within a period of two months from the date of the order i.e. 13.2.2007. The appellants took exception to the order passed by the Industrial Court by presenting Writ Petition No.3950 of 2007. It was disposed of by the learned single Judge of this Court on 12.10.2007. The learned single Judge, while disposing of the matter observed that the employer himself appears to have admitted the claim of the employee and the order passed by the learned Member, Industrial Court is just and proper. The employer thereafter presented a review Application No.136 of 2007, challenging the order passed by the learned single Judge of this Court. The Review Application was preferred on discovery of communication dated 7.6.2006 issued by the employer. The review application was rejected observing that, there was no sufficient ground for causing review of the order since it was open for the employer to produce the aforesaid communication on

record and to put forth its contentions when the matter was in progress and was pending before the industrial Court during 2004 to 2007 or in the proceedings of writ petition initiated thereafter. The Receipt of communication by the employer's Advocate was not considered as sufficient ground by the learned single Judge, dealing with review application to cause interference in the concurrent orders passed by the Industrial Court as well as learned single Judge of this Court disposing of the Writ Petition.

3 We have perused the orders passed by the Industrial Court and learned single Judge of this Court disposing of the Writ Petition and Review application. The challenge raised by the appellants in the instant appeal need not be gone into, considering the concurrent findings of facts recorded by the Courts below. The employee has been kept away from the benefits even after assurance given by the employer before the learned single Judge while disposing of the writ petition.

4 Since the Letters Patent Appeal is devoid of any substance, it stands disposed of. Pending Civil Applications do not survive and stand disposed of.

(P.R. BORA, J)

(R.M.BORDE, J)