

Tata Institute of Social Sciences	...	Applicant
Vs.		
Kiran K. Kedari and others	...	Respondents

Mr. Rahul Nerlekar for Applicant
Ms Nayna Buch a/w. Mr. Shailesh K. More for Respondent No.1.
Mr. Ashok D. Shetty a/w. Ms Rita K. Joshi for Respondent No.3.

CORAM : R. G. KETKAR, J.
DATE : 15TH SEPTEMBER, 2015

P.C. :

Heard Mr. Nerlekar, learned Counsel for applicant, Ms Buch, learned Counsel for respondent No.1 and Mr. Shetty, learned Counsel for respondent No.3 at length.

2. By this Application, original petitioner has sought clarification and / or modification of order dated 25.02.2015 passed by this Court in Writ Petition No.11630 of 2014 and direction that maintenance of status-quo ante, pending disposal of the final complaint, to mean that employment of respondent No.1 with the applicant is through the respondent No.3 contractor, by maintaining wages and service conditions as on 26.09.2013; for clarification and / or modification of order dated 25.02.2015 and direction that maintenance of status-quo ante pending disposal of the main complaint, by asking respondent No.1 to sign a separate muster maintained by the applicant.

3. Mr. Nerlekar submitted that respondent No.1 instituted Complaint (ULP) No.252 of 2013. Pending that complaint, he took out application

exhibit U-2. By order dated 02.08.2014, that application was allowed and respondents No.1 and 2 therein were directed to allow the complainant (respondent No.1 herein) to resume duties by observing status-quo ante pending disposal of the main complaint. The order of the Labour Court was confirmed by the Industrial Court and by this Court. As the applicant has not complied the order, respondent No.1 has instituted Contempt Petition No.233 of 2015 in this Court. He submitted that the order of the Labour Court directing maintenance of status-quo ante has created problem in implementing that order. He submitted that the respondent No.1 may be directed to sign the muster maintained by the applicant. Respondent No.3 is ready and willing to pay the wages to the respondent No.1. He submitted that the applicant has no sanctioned post on which respondent No.1 can be absorbed. Applicant is getting salary grant from U.G.C. and as the respondent No.3 is ready and willing to pay wages / salary to the respondent No.1, no prejudice will be caused to the respondent No.1, and at the same time, this can be made as a workable arrangement pending the main complaint.

4. On the other hand, Ms Buch submitted that on one hand, applicant desires to implement the order passed by this Court confirming the orders passed by the lower Courts, and at the same time, actually they have not implemented the order. Perusal of the order passed by this Court shows that the appointment letters issued by the petitioner were considered in paragraphs 6 and 7. Last appointment letter was issued on 28.08.2009 and the post of 'Lower Division Clerk / Typist-Clerk' was re-designated as the 'Upper Division Clerk' on 25.02.2009.

5. In view thereof, in my opinion, following clarification will meet the ends of justice:

a. Without prejudice to the rights and contentions of the

applicant in the complaint before the Labour Court, applicant will permit respondent No.1 to resume duties as per the appointment letter dated 28.08.2009 and will pay salary / wages by giving benefit of revision of pay-scale, if any.

b. Application is disposed of accordingly.

(R. G. KETKAR, J.)

Minal Parab