

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

WRIT PETITION NO.3947 OF 2015

Sudarshan Snatram Munde
Residing at Pratapgad Building No.2.
Room No.11, St. Colony, Ramwadi,
Taluka Pen, District. Raigad

.. Petitioner.

V/s

1. Divisional Controller
M.S.R.T.C. Corporation,
Raigad Division, Raigad,
Ramwadi, Near S.T. Stand,
Taluka Pen, District. Raigad

2. M.S.R.T. Corporation
Through Divisional Controller,
Raigad Division, Ramwadi,
Near S.T. Stand, Taluka Pen,
District. Raigad

.. Respondents.

Mr. Onkar V. Warange, for Petitioner.

Coram : Smt. R.P. SondurBaldota, J.

Date : 21st April, 2015.

P.C.

1. This petition filed by petitioner-employee challenges the order dated 17th March, 2015 by which the Industrial Court, Thane rejected his application for interim relief under Section 30(2) of the Maharashtra Recognition of Trade Union and Prevention of Unfair

Labour Practices Act, 1971. The interim relief sought by the petitioner was to restrain the respondent-corporation from giving effect to the DEO order dated 26th December, 2014 till the disposal of the complaint.

2. The petitioner joined services of the respondents in the year 2006 as a Conductor. Two years thereafter, in response to the advertisement dated 15th October, 2008, he applied to the post of Clerk with the respondents. He was selected for the post of Clerk and the order of an appointment came to be issued to him, stating that the appointment was on probation of five years and on satisfactory completion of period of five years, he would be confirmed in the post of Clerk.

3. On 30th June, 2010, while working as a Clerk on probation, the petitioner was given benefit of circular dated 18th November, 2008 for the purpose of fixation of his salary. On realisation that the circular had been wrongly applied to the petitioner, as the benefit under circular was available to the appointment made on compassionate ground, the petitioner was served with the notice dated 26th December, 2014 informing him that the fixation of his salary on the basis of the circular was not correct

and his pay was being fixed once again without taking into account the circular dated 18th November, 2008. He was also informed that the excess payment, if any, made to him would be recovered.

4. The petitioner then filed proceedings bearing Complaint ULP No.349 of 2014 to challenge the order and sought stay of the communication dated 26th December, 2014. The Industrial Court, Thane dismissed the complaint giving reason that the letter dated 26th December, 2014 was in the nature of correcting the mistake committed by the respondent. Consequently, it cannot amount to any inconvenience or hardship to the petitioner. In my opinion there is no infirmity in the order. There cannot be any dispute that the circular dated 18th November, 2008 was applicable only to the appointments made on the compassionate ground and hence, could not be attracted to the appointment of the petitioner. Any corrective steps taken by the respondent cannot be stalled by resorting to Court proceedings. Hence, the petition is dismissed.

(Smt. R.P. SondurBaldota, J.)