

Sequeira

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

WRIT PETITION NO. 5707 OF 2014

M/s.Renu Electronics Pvt. Ltd. .. Petitioner
Vs.
Mr.Avinash Popat Dagade. .. Respondent

Mr.Nitin Kulkarni a/w Mr.Avinash Belge, for the Petitioner.
Mr.Shrishailya Deshmukh, for the Respondent.

***CORAM: N.M.Jamdar, J.
Monday 26 October, 2015***

P.C. :

Since the petition arises from an interim order it is taken up for disposal by consent.

2. By this petition, Petitioner – employer challenges the order passed by the Industrial Court Pune dated 15 May 2014 directing the Petitioner to provide work to the Respondent strictly as per the terms and conditions of the appointment.

3. It appears that the dispute between the parties regarding the duties to be carried out by the Respondent is pending for some time. Earlier the Respondent had filed Complaint (ULP) No. 263 of 2012 making a grievance that the Petitioner was not giving him work. The Complaint was disposed of by way of a compromise

pursis dated 10 January 2013 wherein the Petitioner was to provide the work of Despatch Helper to the Respondent. Thereafter further proceedings ensued and the present Complaint (ULP) No.36 of 2013 was filed by the Respondent again making grievance that the Petitioner was not provided work as a Despatch Helper to the Respondent.

4. It is the case of the Respondent that he must be given work as per the duty list which was given to him at the time of his appointment. The said duty list is annexed at Exhibit 'A' to the petition. It is the case of the Petitioner that the Petitioner is willing to provide work to the Respondent as a Despatch Helper, however subsequently, due to the rules framed by the government regarding ISO certification an additional duty of pasting a unit sticker has to be performed by a Despatch Helper. The Respondent has refused to paste the unit sticker while other workers are doing the said work and therefore no work is being provided to the Respondent.

5. The main complaint is pending. As a result of the dispute there is a stand off between the Respondent and the Petitioner, because of which the Respondent is not carrying out any work. Such state of affairs cannot be permitted to continue. I have compared both the old and the new duty list. The additional work is only pasting a unit sticker. The report of the Investigating Officer does not reveal that pasting of a unit sticker is a substantial additional burden on the Respondent, or the work is physically impossible or inhuman. Prima facie this additional work is of minor

nature and within the duty of a Despatch Helper. To my mind therefore, the approach taken by the Industrial Court is hyper-technical one, restricting the employer only to give work only as per the original duty list, and not as the new duty list which is necessary due to the subsequent developments. I am therefore, of the opinion that the impugned Order needs to be modified to the effect, that the Petitioner will give work to the Respondent as a Despatch Helper as per the duty list annexed at Exhibit 'J' to the petition.

6. As regards the rights and contentions of the parties as to the exact nature of duties to be performed, they will be decided at the time of hearing of the Complaint.

7. The Writ Petition is disposed of by modifying the order passed by the Industrial Court dated 15 May 2014 to the effect that the Petitioner is directed to provide the work of Despatch Helper to the Respondent as per the duty list annexed at Exhibit 'J' to the petition and pay him the wages due.

8. All contentions of the parties on merits of the Complaint are kept open. Writ petition is disposed of in above terms.

(N.M.Jamdar, J.)