

IN THE HIGH COURT OF JUDICATURE AT MUMBAI
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2286 OF 2014

Amit Dhekne ... Petitioner
Vs.
M/s. Future Value Limited and another ... Respondents

Ms Bennet D'Costa for Petitioner.
Mr. S. S. Pathak for Respondents.

CORAM : R. G. KETKAR, J.
DATE : 20 JANUARY 2015

P.C. :

Heard Mr. D'Costa, learned Counsel for the petitioner and Mr. Pathak, learned Counsel for respondents at length.

2. By this Petition under Article 226 of the Constitution of India, the petitioner has challenged the judgment and order dated 11.08.2014 passed by the learned President, Industrial Court, Maharashtra, Mumbai in Revision Application (ULP) No.15 of 2014. By that order, the Industrial Court allowed the Revision Application preferred by the respondents and quashed and set aside the judgment and order dated 31.12.2013 passed by the learned Judge, 5th Labour Court, Mumbai below exhibit U-2 in Complaint (ULP) No.181 of 2013 and remitted matter to the trial Court with a direction to decide the interim relief application afresh in accordance with the provisions of law.

3. By order dated 31.12.2013, the Labour Court partly allowed the application for interim relief, exhibit U-2, with directions to the respondents to conclude the domestic enquiry initiated against the petitioner in pursuance of the charge-sheet dated 30.12.2010 within 2 months from the date of the order and expedite the same by giving

reasonable opportunity to defend the case by the petitioner. After concluding the enquiry, if respondents hold that alleged misconduct has been proved against the petitioner then they were restrained from imposing major punishment of termination, dismissal and discharge against the petitioner without permission of the Labour Court. The respondents were given liberty to impose minor punishment without permission of the Labour Court in case of proved misconduct against the petitioner after concluding the enquiry within the stipulated time and report the said fact to the Court. The Labour Court also prima facie held and declared that respondents have engaged in and continue to engage in unfair labour practices under items 1(a) to 1(d), 1(f) and 1(g) of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short 'Act') and directed the respondents to cease and desist therefrom temporarily.

4. Mr. Pathak has filed affidavit of Ashwin Gokhale working as Manager, Human Resource Department with the respondent No.1 wherein it is stated that the departmental enquiry was over and the respondents have terminated the petitioner's services on 21.08.2014. The order of termination dated 21.08.2014 is enclosed as Annexure-A to the affidavit.

5. In view thereof, the interim relief application filed by the petitioner is rendered infructuous.

6. Mr. D'Costa submitted that in view of the subsequent development, the petitioner may be permitted to amend the complaint so as to challenge the termination order dated 21.08.2014. He further submitted that in paragraph 16, the Industrial Court observed that the Labour Court has to grant the interim relief in accordance with the

provisions of Section 30(2) of the Act. The reliefs sought by the party beyond the scope of statutory provisions cannot be allowed to be granted by the trial Court and in such an eventuality, the same is without any jurisdiction. Mr. D'Costa submitted that the Labour Court had restrained the respondents from imposing major punishment of termination, dismissal and discharge against the petitioner without permission from the Court till the disposal of the main complaint. The said order is perfectly in accordance with law and in fact is supported by the decision of this Court in the case of **Ashok Vishnu Kate Vs. M. R. Bhope**, 1992 *I CLR* 532. He, therefore, submitted that all the contentions including the contention as regards power of the Labour Court under Section 30(2) of the Act be kept open though the interim relief application has become infructuous. He further submitted that in the peculiar facts and circumstances, the Labour Court may be directed to dispose of the complaint in a time bound manner.

7. I have considered the rival submissions made by the learned Counsel appearing for the parties. I have also perused the material on record. As noted earlier, services of the petitioner are terminated by order dated 21.08.2014 that is to say, after filing of the complaint as also after passing of the impugned order. Mr. Pathak though opposed the prayer of the petitioner to amend the complaint, he could not substantiate the opposition, as admittedly, the termination is effected after filing of the complaint as also after passing of the impugned order. In view thereof, leave to amend complaint so as to challenge the order of termination is granted. Amendment in the complaint shall be carried out within 14 days from production of authenticated copy of the order. In view of the decision of the Division Bench of this Court in the case of **Ashok Vishnu Kate** (*supra*), the contention as regards power of the Labour Court to grant interim relief under Section 30(2) of the Act is kept open.

As far as deciding the complaint in a time-bound manner is concerned, liberty is reserved to the petitioner to take out appropriate application for disposing of the complaint in a time-bound manner. If such application is taken out, the Labour Court shall consider the fact that after passing of the impugned order, the services of the petitioner were terminated on 21.08.2014 and pass appropriate order accordingly.

8. In view thereof, Petition is disposed of as infructuous. Order accordingly.

(R. G. KETKAR, J.)

Minal Parab