

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9431 OF 2016

M/s Konkan Agro Marine Industries
Pvt.Ltd., Babargaon, Tal.Gangapur,
Dist.Aurangabad, Through its
Factory Manager

– PETITIONER

VERSUS

Akhil Maharashtra Akyavardhak
Sarva Shramik Sanghatana,
Arunodaya Niwas,
Plot No.191/192, Galnimb,
Tal.Gangapur, Dist.Aurangabad

– RESPONDENT

Mr.S.V.Dankh, Advocate for the petitioner.
Mr.M.S.Indani, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)
DATE : 29/11/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioner is aggrieved by the order of the Labour Court dated 23/01/2014 by which reinstatement has been directed by way of interim relief. The petitioner is further aggrieved by the judgment of the Industrial Court dated 28/06/2016 by which the Revision Petition No.11/2014 has been dismissed.

3. I have considered the submissions of the learned Advocates for the respective sides. The petitioner reiterates that the issue as to whether final relief can be granted at an interim stage and that too after nine years of the pendency of the complaint, needs to be adjudicated upon by this Court. The learned Advocate for the respondent submits that this petition deserves to be dismissed on merits. I do not find any reason to keep this petition pending solely on the ground that 63 workers involved in Complaint (ULP) No.9/2005 are waiting for an adjudication of their complaint for the last 11 years.

4. The Labour Court, by the impugned order dated 23/01/2014, has directed the reinstatement of 63 workers who have been orally terminated on 29/11/2004. In my view, instead of spending the time of the Court on the interim application when the complaint was pending for 9 years, ends of justice would have been met if the Labour Court would have decided the main complaint itself. It, however, appears from the record that the respondent/Union insisted on a decision on the interim application.

5. An application for interim relief under section 30(2) of the 1971 Act is aimed at granting some relief to an employee during the pendency of the complaint. Such relief cannot be granted normally in the matters of disciplinary proceedings, keeping in view the law laid

down by the Hon'ble Apex Court in the matter of Workmen of Motipur Sugar Factory Private Ltd.,Vs. The Motipur Sugar Factory Private Limited, AIR 1965 SC 1803. So also, it is settled law that interim relief cannot lead to a grant of final relief at an interim stage. Granting reinstatement in service during the pendency of the complaint would practically amount to grant of final relief.

6. The reliance placed by the respondent on the judgment delivered by the Hon'ble Apex Court in the matter of Kishan Singh Vs. Executive Engineer, Haryana State Agricultural Marketing Board, Rohtak (Haryana), 2010(2) Supreme 318 would be of no assistance to the respondent since the issue before the Hon'ble Apex Court was with reference to a final judgment and award delivered by the Labour Court.

7. In my view, grant of interim relief and that too of a final nature after 9 years of the pendency of the ULP complaint is not only impracticable, but unheard of. As such, the Industrial Court as well as the Labour Court have erred in concluding that the respondents / employees deserve to be reinstated in service during the pendency of the complaint.

8. Keeping the interest of the respondent / worker in focus, I deem it appropriate to direct the Labour Court to decide Complaint (ULP)

No.9/2005 as expeditiously as possible and preferably within a period of 8 (eight) months from today. The litigating sides shall render co-operation to the Labour Court and shall refrain from seeking adjournments on unreasonable and trivial grounds. Needless to state, the prayer of the complainants seeking reinstatement with continuity and full back wages shall be considered by the Labour Court on its own merits.

9. As such, this petition is partly allowed. The impugned order of the Labour Court dated 23/01/2014 is set aside. Consequentially, the judgment of the Industrial Court dated 28/06/2016 is quashed and set aside and the Revision (ULP) No.11/2014 stands disposed of in the light of the directions set out in the foregoing paragraphs.

10. In the event the complainant / Union makes a request for withdrawal of the amount of Rs.1,00,000/- which is deposited before the Labour Court and kept in fixed deposit, the Labour Court may consider the said request provided it is convinced that the Respondent is delaying the matter. Needless to state, the said application shall then be decided on its own merits considering the balance of convenience of the parties.

11. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)