

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9993 OF 2016

THE POONA CHRISTIAN MEDICAL ASSOCIATION
VERSUS
SANJAY KAMUWEL PAKHARE

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Advocate for Petitioner : Shri T.K.Prabhakaran
h/f Shri A.V.Mundada
Advocate for Respondent : Shri M.M.Kamble
h/f Shri Ramesh Wakade

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 13, 2016

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PER COURT :-

1. The petitioner is aggrieved by the Part I order dated 10.3.2016, delivered by the Labour Court in Complaint (ULP) No.3 of 2013, and the judgment of the Industrial Court, dated 26.8.2016, by which, Revision (ULP) No.20 of 2016, filed by the petitioner has been dismissed.

2. Shri Prabhakaran, learned Advocate for the petitioner, in the light of the directions of this Court in paragraph Nos.7, 12, 13 and 14 in the earlier judgment dated 10.6.2015, in between these parties in Writ Petition No.7950 of 2014, seeks a remand of the matter to the Labour Court for deciding the two issues in relation to the enquiry.

3. This matter was adjourned to enable the learned Advocate for

the respondent to take instructions by order dated 1.10.2016, which reads as under:-

“1. I have heard the learned Advocates for both the sides.

2. Learned Advocate for the respondent / employee prays for time to take instructions from the respondent, considering the directions that were set out by this Court in paragraph Nos.7, 12, 13 and 14 in the judgment dated 10.6.2015, delivered in Writ Petition No.7950 of 2015, whether the matter can be remanded to the Labour Court for deciding the first two issues, in the light of the judgment delivered by this Court in Maharashtra State Co-operative Cotton Grovers Marketing Federation Ltd. & another Vs. Vasant Ambadas Deshpande [2014 MLJ 339 : 2014 I CLR 878] and Maharashtra State Roadways Transport Corporation Vs. Syed Saheblal Syed Nijam [2014 III CLR 547 = 2014 (4) Mah.L.J.687].

3. At the request of the respondent, S.O. to 13.10.2016 for passing orders.

4. Till the next date of hearing in this matter, the Labour Court, Jalna shall not proceed to commence the recording of oral evidence in Complaint (ULP) No.3 of 2013.”

4. Learned Advocate for the respondent submits on instructions, today that the respondent is agreeable for the remand and prays that the Labour Court be directed to decide the first two issues on the basis of the judgment delivered by this Court in the matter of Vasant

Ambadas Deshpande (supra) and Syed Saheblal (supra).

5. Notwithstanding the above, I have reason to be disturbed by the manner in which, the learned Presiding Officer Labour Court, Jalna has ignored and brushed aside the directions of this Court in paragraph Nos.7 and 12 to 14, set out in my judgment dated 10.6.2015 in Writ Petition No.7950 of 2014. I had specifically dealt with the law that is applicable, while deciding the first two issues in paragraph No.7. In paragraph No.12, I had noted that the management was willing to produce the entire enquiry proceedings on record. In paragraph Nos.13 and 14, I had observed that the Labour Court would decide the first two issues on the basis of the entire record and proceedings of the domestic enquiry and no fresh evidence was to be recorded. Such is the law laid down in the case of Vasant Ambadas Deshpande (supra). Despite these directions, the Presiding Officer, Labour Court permitted the respondent / employee to lead evidence with regard to the first two issues and on the basis of fresh evidence adduced, the Labour Court has delivered the impugned Part I judgment, dated 10.3.2016.

6. It is quite apparent that the concerned Presiding Officer of the Labour Court, Jalna has ignored the directions of this Court and has failed to follow the law, as was brought to the notice of the concerned Presiding Officer. It, therefore, appears that the Labour

Court has disregarded the directions of this Court.

7. It is equally disturbing that when this aspect was brought to the notice of the learned Member, Industrial Court, Jalna in Revision (ULP) No.20 of 2016, it failed to note this aspect inspite of referring to the two judgments in the cases of Syed Saheblal (supra) and Vasant Ambadas Deshpande (supra), in paragraph No.14(iv) and (v) of its judgment.

8. In the light of the above, the impugned Part I judgment of the Labour Court, dated 10.3.2016 and the judgment of the Industrial Court dated 26.8.2016, are quashed and set aside. Revision (ULP) No.20 of 2016 stands disposed off. The Labour Court is directed to hear the submissions of the learned Advocates, purely on the basis of the record and proceedings of the enquiry and decide issue Nos.1 and 2 in the light of the directions of this Court in it's judgment dated 10.6.2015 and in the light of the law laid down in the case of Vasant Ambadas Deshpande (supra).

9. I am constrained, in the peculiar facts as above, to direct the concerned Presiding Officer, Labour Court, Jalna to be cautious and ensure that there shall not be a repetition of 'dis-regard' of the directions of this Court and henceforth, he shall ensure that the directions of the superior Courts are not ignored.

10. The Registrar (Judicial) of this Court is directed to place the copy of this judgment before the concerned Learned Presiding Officer, Labour Court, Jalna and the learned Member, Industrial Court, Jalna.

(RAVINDRA V. GHUGE, J.)

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