

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

WRIT PETITION NO.9252 OF 2016

Vishnu Soma Jadhav

..Petitioner

Versus

The Manager

Government Printing and Stationary,

Tarabai Park, Kolhapur and others

..Respondents

Mr. K. P. Lad for the Petitioner.

Mrs. V. S. Nimbalkar AGP for the Respondents.

CORAM : R. M. SAVANT, J.

DATE : 30th AUGUST, 2016

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 11.07.2016 passed by the Learned Member of the Industrial Court No.2, Kolhapur. By which order, the application Exh.U-2 filed by the Petitioner for interim reliefs came to be rejected.

2 The Petitioner was appointed as a reader in the Printing Press run by the Respondents by appointment letter dated 30.12.2003. The appointment of the Petitioner was inter-alia on the terms and conditions mentioned in the said appointment letter, vide clause (5) of the said appointment letter, it was stipulated that the Petitioner would have to pass the departmental examination, vide clause (12) of the

appointment letter, it was provided that the Petitioner would have to pass the departmental examination within three years of his appointment and if the Petitioner does not pass the same, he can either be terminated or his increments can be stopped. It is an undisputed position that the Petitioner has not passed the departmental examination within three years of his appointment. The Petitioner vide letter dated 23.12.2008 was informed that his increment due on dated 01.01.2009 is stopped till such time the Petitioner passes the departmental examination. In spite of the said indulgence being shown, the Petitioner has not passed the departmental examination resulting in an order dated 22.05.2015 passed by the Respondent, whereby the Petitioner is put at the bottom of the seniority amongst the readers. This resulted in the Petitioner invoking the provisions of the MRTU & PULP Act, 1971, by filing Complaint (ULP) No.138 of 2015 invoking Item Nos.9 and 10 of Schedule IV. In the said complaint, the Petitioner filed the instant application Exh.U-2 for interim reliefs. The interim reliefs sought were to restrain the Respondents from implementing and executing the order dated 22.05.2015 and the second relief sought was a direction to the Respondents to deposit the increments due from 01.01.2009 along-with consequential benefits and interest thereon in the Court. The said application Exh.U-2 has been rejected by the Learned Member of the Industrial Court No.2, Kolhapur

by the impugned order dated 11.07.2016. The Learned Member has adverted to the fact that in terms of clause (12) of the appointment order dated 30.12.2003 the Petitioner was required to pass the departmental examination within three years, which time was subsequently extended albeit on the condition that the increments would stand stayed till the Petitioner passes the departmental examination. The Learned Member has observed that in spite of the said opportunity being given, the Petitioner has not passed the said departmental examination. The Learned Member has also observed that the entitlement of the Petitioner to the increments would also hinge upon the evidence that would be led by the parties and therefore the relief sought by the Petitioner vide the said application Exh.U-2 cannot be granted at the said stage. In my view, having regard to the nature of the relief sought vide the said application Exh.U-2 as also having regard to the fact that the Petitioner has admittedly not passed the departmental examination as yet, no case for interference with the impugned order dated 11.07.2016 is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]