

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

916 WRIT PETITION NO. 9325 OF 2017

GANESH SUBBARAO LONDHE
VERSUS
SAHITYARATNA LOKSHAHIR ANNABHAU SATHE VIKAS
MAHAMANDAL MARYADIT MUMBAI AND ANOTHE

...
Advocate for the Petitioner : Mr. A. R. Devakate
Advocate for Respondent no.1 : Mr. V. R. Jain

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CORAM : RAVINDRA V. GHUGE, J.
DATE : 20.09.2017

PER COURT :

1. The petitioner is aggrieved by the order dated 17.05.2017 passed by the Labour Court by which the application Exhibit U/2 seeking interim relief in Complaint (U.L.P) No. 34/2015, has been rejected. The petitioner is also aggrieved by the judgment and order delivered by the Industrial Court, Ahmednagar dated 11.07.2017, by which Revision (ULP) No. 20/2017 filed by the petitioner has been dismissed.

2. I have considered the extensive submissions of the learned advocates for both the sides. I have also perused the orders dated 31.03.2017 in Writ Petition Nos.3788/2017 and 3790/2017, dated 17.04.2017 in Writ Petition No.3899/2017 and dated 03.08.2017 in Writ Petition No. 9890 of 2016, passed at the Principal Seat of this Court.

3. In all the above mentioned orders, the writ petitions were disposed of / rejected and the respondent/employer was granted the liberty to continue the services of the workman, pending the disciplinary proceedings or place him under suspension pending such disciplinary proceedings subject to the condition that he would be paid the suspension allowance strictly as per the rules.

4. Learned advocate for the respondents submits that a charge sheet has already been served upon the petitioner and the respondents desire to conduct a disciplinary proceeding against him.

5. Learned advocate for the petitioner submits that those similarly situated workmen, who were suspended, have now been reinstated by specific orders issued in August, 2017 and are continued in employment.

6. Considering the above and by the consent of the parties, the pending complaint ULP No. 34/2015 will stand disposed of as it was filed by the petitioner invoking Section 28(1) read with Section 30(2) of the Maharashtra Recognition of Trade Union & Prevention of Unfair Labour Practices Act, 1971 alleging apprehended unfair labour practices under Item-1 of Schedule IV. Now, that the respondents have categorically declared as like in all other cases before the Principal Seat

that a departmental enquiry would be conducted against the petitioners and there would not be a termination simplicitor, the said complaint need not be kept pending as the apprehension of the petitioner is put to rest.

7. This petition is also, therefore, disposed of.

8. Needless to state, as the complaint is being disposed of, the impugned orders are merged with the disposal of the complaint. The respondents, as per their statement, would proceed to conduct a departmental enquiry as per the rules that are applicable. All contentions of the litigating sides are kept open.

9. It is made clear that this court has not dealt with the aspect of whether, the respondent is an industry under Section 2(j) of the Industrial Disputes Act, 1947 and the said issue is, therefore, kept open.

10. In the event, the petitioner is placed under suspension pending disciplinary proceeding, the respondents would be duty bound to pay him the subsistence allowance as is permissible in law from the date of suspension.