

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

WRIT PETITION NO.6003 OF 2017

The General Secretary Bank Employees Union, Kolhapur	...	Petitioner
Versus The Chairman, Sangli District Central Co-op Bank Ltd. And Another	...	Respondents

Mr. Sandeep S. Koregave for the Petitioner.
Mr. Umesh R. Mankapure for the Respondents.

CORAM : PRASANNA B. VARALE, J.

DATE : 21 SEPTEMBER 2017

P.C. :

Heard learned Counsel appearing for the Petitioner. The Petitioner is the Union and the petition is filed through the General Secretary of union, namely, Bank Employees Union, Kolhapur, challenging the order passed by the Member, Industrial Court, Sangli dated 7 March 2017, thereby rejecting the application seeking an amendment. It may be useful to refer certain facts in brief giving rise to the present petition, namely, the Petitioner filed a complaint in the Industrial Court, Sangli under Section 28 read with Item Nos.4(C), (D) & (E) 5 of Schedule II & 9 and 10 of the Schedule IV of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour

Practices Act, 1971 (“MRTU & PULP Act”).

As the prayers are very interesting, the same are referred to as under :

- a) declare that the Respondents above.....;
- b) direct the Respondents as well the Respondent Bank not to subject the employees to any Written Test as a pre-condition for according promotions and without following the procedure prescribed by the Bombay Industrial Relations Act, 1946;
- c) direct the Respondent Bank to cancel the Written Test scheduled to be held on 22nd February 2009 and accord promotions in accordance with the Service Regulations adopted by the Respondent Bank in force;
- d) award costs.....;
- e) grant such other reliefs.....;”

Perusal of the material placed on record show that an application was filed by the Petitioner seeking some interim orders and that application was allowed and the learned Member, Industrial Court by an order dated 23 June 2009 restrained the bank from holding written test as pre-condition for granting promotions during the pendency of the complaint. This interim order was in operation. An application came to be filed on 7 February 2017. It was submitted in the amendment application that though there was an interim order and though the resolution was passed in the meeting dated 15 December 2011, not to promote employees on the

basis of result of written test, certain employees were promoted and orders of the promotions were issued. It was submitted that inspite of order of the Court the exercise was undertaken by the bank of effecting the promotions, the Managing Director of the Bank has committed an offence under Section 48 of the MRTU & PULP Act. It is stated in the application that Criminal Complaint (ULP) No.09/2012 is pending before the Labour Court and then it is submitted that these facts are necessary to be brought before the Court below and by such amendment, the nature of the complaint would not change. It is also submitted that such amendment would not cause prejudice to the otherside. The application was opposed by filing say. The learned Member of the Industrial Court in detailed order making reference to grievances raised in the complaint of the complainant as well as a circular issued dated 12 February 2009 and by referring to the facts, namely, the complainant union closed its oral evidence on 01 April 2014 by filing pursis. Thereafter the Respondent adduced oral evidence on 15 April 2014 and closed their oral evidence and referring that the application is pending before the Court for pretty long period and no fruitful purpose would be served by the amendment, rejected the application. The only ground raised in the amendment application was for bringing the subsequent events to the notice of the Court, namely, breach of an order

passed by the learned Member of the Industrial Court. For the alleged breach, the Petitioner/complainant has already approached the forum by filing Criminal Complaint (ULP) No.09/2012, the same is pending for its decision. If the forum arrives at the conclusion that there was useful breach or if the forum arrives at the conclusion that the bank against whom the complaint is lodged, is guilty for commission of an offence under Section 48 of the MRTU & PULP Act, certainly the necessary orders would be passed. There is absolutely no reason to say that this would a matter which would have some bearing on ultimate decision of the complaint. Learned Member of the Industrial Court was justified in observing that the attempt of filing the application and seeking an amendment was nothing but to prolong the hearing of the matter. The parties have closed their evidence in the year 2014 itself. The complaint is ripe for final disposal and at such stage, the attempt of filing the application for seeking amendment was certainly not a bonafide attempt. The learned Member of the Industrial Court was also justified in observing that no fruitful purpose would be served by allowing the application. The learned member also observed that the application for amendment can be filed at any stage, but the party will have to prove that the amendment is necessary for just decision of the matter and was filed with bonafide intention. As the

finding of the learned Member is based on proper appreciation of facts and law, I am of the opinion that the order impugned in the petition needs no interference at the hands of this Court. The petition is thus devoid of merit and deserves to be dismissed. Accordingly, the petition is dismissed.

(PRASANNA B. VARALE, J.)