

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 8577 OF 2017

Divisional Controller,
M.S.R.T. Corporation
And Anr.

...Petitioners

Versus

Rajesh Vasant Yadav

...Respondent

....

Mr.Y.P. Deshmukh, Advocate for the Petitioners.

Mr.Rajendra Nair, Advocate for the Respondent.

....

CORAM : R. G. KETKAR, J.

DATE : 04th AUGUST, 2017

P.C.

1. Heard Mr.Y.P. Deshmukh, learned counsel for the petitioners and Mr.Rajendra Nair, learned counsel for the respondent, at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and order dated 10.9.2015 passed by the learned Member, Industrial Court, Thane (for short, 'Tribunal') below Exhibit U-2 in complaint (U.L.P.) No.349/2013. By that order, the Tribunal allowed the application Exhibit U-2 made by the respondent,

hereinafter referred to as the 'complainant', and directed the petitioners to provide alternate employment to him until disposal of the complaint and report the compliance.

3. As the petitioners have not complied the impugned order, the complainant has instituted Misc. Criminal Complaint (U.L.P.) No.2/2016 before the Labour Court, Thane under Section 48 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short, 'Act').

4. The matter was heard at length from time to time. During the course of hearing, a suggestion was given to Mr. Deshmukh to consider whether without prejudice to the rights and contentions of the petitioners, the petitioners are ready and willing to offer as by way of interim arrangement to the complainant any post. Mr. Deshmukh states that Mr. Pravin Mahadev Shinde, Establishment Officer having additional charge of Divisional Personnel Officer of M.S.R.T.C., Raigad Division is present in the Court. Mr. Deshmukh has tendered a photo-copy of his identity card issued by the petitioner, which is taken on record and marked 'A', for identification.

5. Upon taking instructions from him, Mr. Deshmukh

states that without prejudice to the rights and contentions of the petitioners in the complaint, the petitioners are ready and willing to offer the post of Cleaner (Junior) in the pay-scale of Rs.3300-3607 at Raigad Division of the petitioners to the complainant.

6. Mr. Nair states that the complainant is present in the Court. He has tendered a photo-copy of his Aadhaar card which is taken on record and marked 'B' for identification. He has also tendered a copy of the order dated 1.8.2017, which is taken on record and marked 'C' for identification by which Misc. Criminal Complaint is disposed of as withdrawn. He further states that the respondent complainant has already withdrawn Misc. Criminal Complaint No.2/2016. Upon taking instructions from him, Mr. Nair states that without prejudice to the rights and contentions of the complainant, he is ready and willing to accept the post of Cleaner (Junior) in the pay-scale of Rs.3300-3607 at Raigad Division. He submitted that it may be clarified that while deciding the main complaint, the Tribunal will pass appropriate order as regards interim arrangement made between the parties. All contentions on merits in the complaint may be kept open.

7. Statements made by learned Counsel appearing for the parties are accepted.

8. In view thereof, by consent of parties, the Petition is disposed of in the following terms:

- (i) Without prejudice to the rights and contentions of the parties, the respondent/complainant, as and by way of temporary arrangement, shall be appointed on the post of Cleaner (Junior) in the pay-scale of Rs.3300-3607. The respondent/complainant shall resume the duties w.e.f. 7.8.2017 at Raigad Division of the petitioners.
- (ii) The Tribunal shall dispose of the complaint on the basis of the evidence on record and on its own merits and in accordance with law. While disposing of the complaint, the Tribunal also shall pass appropriate order as regards interim arrangement made pending the complaint.
- (iii) All contentions of the parties on merits are expressly kept open.
- (iv) Petition is disposed of in aforesaid terms with no order as to costs. Order accordingly.

(R. G. KETKAR, J.)