

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4650 OF 2017

(Ku. Rekha Puranji Charthal...VS...The Chief Executive Officer, ZP, Amravati)

WITH

WRIT PETITION NO. 5215 OF 2017

(Kalpana Laxman Thakare...VS...The Chief Executive Officer, ZP, Amravati)

WITH

WRIT PETITION NO. 5216 OF 2017

(Smt. Kirti Rajesh Khanna...VS...The Chief Executive Officer, ZP, Amravati)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Smt. Neeta Jog, Advocate for Petitioners.
Shri S. D. Chopde, Advocate for Respondent.

CORAM : S.C.GUPTE, J.

DATED : 29th AUGUST, 2017.

These writ petitions challenge interim orders passed by the Industrial Court at Amravati on unfair labour practice complaints of the petitioners herein. By way of interim orders, the petitioners, who were complainants before the Industrial Court, had sought stay of their transfer orders during the pendency of the complaints. The Industrial Court vide its impugned orders rejected the interim applications of the petitioners. After the petitions were heard at some length, it has been agreed by the learned counsel for the petitioners that she will not press the present petitions but that hearing of the complaints filed by her before the Industrial Court may be expedited and time bound programme may be laid down for disposal of the complaints. Learned counsel further

submits that certain observations of the Industrial Court, particularly those found in paragraph No.10 of the impugned order dated 11th July, 2017 passed in the case of Rekha Purnaji Charthad in complaint ULP No.43 of 2017 would prejudice her in the trial of the complaint. These observations are not observations of the Court but simply recorded as submissions of the Zilla Parishad.

Learned counsel for the petitioners also submits that admittedly the petitioners have not joined at the places of transfer. She submits that considering the fact that there are festivals, particularly the 'Ganpati' festival followed by 'Nawratra' and 'Diwali', her client be permitted to join duty at the places of transfer after the 'Diwali' vacation. Learned counsel for the respondent submits that the petitioners have already been relieved from their present postings and since they have not actually reported at the respective places of transfer, employees at those places, all of which are either tribal or naxalite infected areas cannot be relieved from their respective posts. Learned counsel for the respondent, however, has no objection that if these petitioners join the duties after the 'Diwali' vacation; the respondent Zilla Parishad shall not take any coercive steps against the petitioners, if they do not join the service at the places of transfer before the 'Diwali' vacation. Learned counsel, however, submits that the petitioners cannot claim any equity as a result of this permission being granted to them. Learned counsel for the petitioners accepts this position. The consequences of such late joining will be a matter entirely within the purview of the Industrial Court, to be decided at the final hearing of the complaints.

In the premises, the following order is passed :

(i) Writ Petition Nos.4650 of 2017, 5215 of 2017 and 5216 of 2017 are dismissed as withdrawn. All rights and contentions of the parties are kept open, to be agitated before the Industrial court in the pending complaints.

(ii) If the petitioners join the services at the respective places of transfer by 23rd October, 2017, the respondent - Zilla Parishad shall not take any coercive steps against them.

(iii) The Industrial Court, Amravati, shall decide Complaint ULP Nos.43 of 2017, 45 of 2017 and 44 of 2017 as expeditiously as possible and in any event, within a period of 6 months from today.

(iv) The findings of the industrial Court, Amravati in paragraph No.8 of the order dated 12th July, 2017 passed on Exh.U-2 in Complaint ULP No.44 of 2017 to the effect that any employee can be transferred in tribal area after completion of 3 years of service and the observations made in paragraph No.10 of the same order to the effect that executive instructions issued by the Government are in the nature of guidelines, shall be treated merely as tentative observations and the Industrial Court will apply its mind afresh to the controversy before it without being influenced by these observations.

JUDGE