

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4490 OF 2019

UMW Dongshin Motech Private Limited	.. Petitioner
Vs.	
Dipak Jaysing Yadav	.. Respondent

Mr.Varun Joshi a/w Mr.Chetan Alia, for the Petitioner.
Mr.Nitin A. Kulkarni, for Respondent.

CORAM : M.S.KARNIK, J.

DATE : 16th APRIL, 2019

P.C. :

. Rule. Rule is made returnable forthwith and heard finally by consent of the parties.

2. The petitioner is aggrieved by the order dated 07/02/2019 passed by the Industrial Court, Pune allowing the application filed by the respondent below Exhibits U-2 and U-11. The respondent approached the Industrial Court contending that he joined services of the petitioner -company on 28/11/2016.

The respondent was designated as a 'trainee' by appointment order dated 25/01/2017. Before the Industrial Court, it is contended by him that he completed continuous service of 240 days in one year and hence, he is entitled for permanency. By an ad-interim order passed below Exhibit U-2 dated 05/06/2018, the Industrial Court directed the petitioner not to terminate services of the respondent without following due process of law till next date. The notice was issued to the petitioner as to why ad-interim granted in favour of the respondent should not be confirmed. Thereafter, the petitioner appeared before the Industrial Court. It was revealed that services of the respondent are terminated on 12/06/2018. There was some dispute as to whether services of the respondent was terminated by following due process of law as directed by the Industrial Court vide order dated 05/06/2018.

3. Vide the impugned order dated 07/02/2019, the Industrial Court was of the opinion that the so called termination is prima facie illegal as the same is without

following due process of law. In this view of the matter, the Industrial Court confirmed the ad-interim order already passed by it on 05/06/2018. Further it restrained the petitioner from terminating the services of respondent without following due process of law till final disposal of the Complaint.

4. The matter was heard for some time on the last occasion. Learned Counsel for the petitioner wanted to take some instructions and hence, the matter was adjourned. Learned Counsel for the petitioner today, on instructions, makes a statement that the petitioner - company would abide by the order dated 07/02/2019 passed by the Industrial Court and that if they want to terminate services of the respondent, they would do so by following due process of law as directed by the Industrial Court in the order dated 07/02/2019. The petitioner is obviously entitled to take such steps including terminating services of the respondent, but after following due process of law as directed by the Industrial Court in the order dated 07/02/2019. In the light of the statement made by the learned

Counsel for the petitioner, nothing further survives for consideration. In the event, the petitioner terminates services of the respondent after following due process of law, all contentions in a challenge to the said order of the termination are kept open.

5. In this view of the matter, the impugned order is set aside. Rule is made absolute in the above terms.

(M.S.KARNIK, J.)