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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 8780 OF 2019****S. S. Engineers Kamgar Sanghtana****.....Petitioner****V/s.****S. S. Engineers****.....Respondent****Mr. Nitin A. Kulkarni for the Petitioner****Mr. A. V. Lokhande a/w Mr. Rajnikant R. Salvi for respondent****CORAM : NITIN W. SAMBRE, J.****DATE : OCTOBER 14, 2019.****P.C.****Heard.**

2 Provisions of Sub-Section (2) of Section 30 of The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (Hereinafter referred to as 'the Act' for the sake of brevity) provides for a statutory remedy in favour of the petitioner seeking review of any interim order. Same was invoked vide application before the Industrial Court, who vide order impugned

dated 11/07/2019 was pleased to hold that application itself is not maintainable and refused registration of the same.

3 In the aforesaid background of legal provision, the submissions are, the order impugned passed on the review application is not sustainable as same runs contrary to proviso to Sub-Section (2) of Section 30 of the Act.

4 While countering aforesaid submissions, learned counsel for respondent would invite attention of this Court to the language employed in the order dated 11/07/2019. According to him, apart from the fact that the order passed by the Industrial Court on 29/01/2019 is a detailed and well reasoned order, the Industrial Court has also recorded that there is no merit in the application for review and that being so, review application was also rejected on merit. He sought dismissal of the petition.

5 Considered submissions.

6 The Industrial Court vide impugned order dated 29/01/2019 while deciding the application for grant of interim relief has, at interim stage, ordered a declaration that respondents are indulged in unfair labour practice by not paying overtime and have not provided a separate lunch room. However, as regards stay to the alleged transfer of employees is concerned, the Industrial Court has recorded a finding that the services are more required on deputation to the places where they are assigned work.

7 The cause for a review under proviso to Sub-Section (2) of Section 30 of the Act is, there is no provision for deputation and even if presuming so that it is there, still same amounts to transfer.

8 Said plea apparently does not appear to have been considered by the Industrial Court while dealing with the review application. Rather by a cryptic order, the Industrial Court has refused to entertain the application with further directions not to register the same.

9 The aforesaid order runs contrary to provisions of proviso to Sub-Section (2) to Section 30 of the Act. That being so, impugned order dated 11/07/2019 is hereby quashed and set aside. The matter is remanded to the learned Industrial Court to decide said application on its own merit.

10 Needless to clarify that this Court has not examined the merits of the order dated 29/01/2019. Petition stands partly allowed.

[NITIN W. SAMBRE, J.]