

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

WRIT PETITION NO.1505/2019

Sushant Atmaram Giripunje
..VS..
Indorama Synthetics (India) Ltd.

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

Court's or Judge's orders

Shri R. B. Khan, Advocate for the petitioner
Shri R. B. Puranik, Advocate for the respondent

CORAM : Z.A.HAQ, J.
DATED : 17/06/2019

Heard.

2] The petitioner-employee has challenged the order passed by the Industrial Court dismissing the application (Exh. U-11) and consequently, rejecting the prayer which was made by the petitioner for directions to the Management/Inquiry Officer to permit the employee to be represented through representative. The petitioner has also challenged the order passed by the Industrial Court by which the application (Exh. U-2) filed by the employee praying that the inquiry, pursuant to the charge-sheet dated 9/02/2018 be stayed till the decision of the complaint filed before the Industrial Court. The employee prayed for stay of the inquiry, mainly on the ground that the copies of documents referred in the charge-sheet were not supplied to the employee.

3] The learned advocate appearing for the respondent submitted that the prayer made by the

petitioner-employee for staying the inquiry on the ground that copies of documents referred in charge-sheet are not supplied to the employee cannot be granted, as the employee has not pointed out the prejudice caused to the employee because of non-supply of the documents, as alleged. It is further submitted that without prejudice to the above contentions of the respondent, copies of the documents would be supplied to the employee within two weeks alongwith the say before the Industrial Court. In view of the above submission made on behalf of the respondent, legality of the order passed on the application (Exh. U-2) is not required to be examined.

4] As far as challenge to the order passed on the application (Exh. U-11) is concerned, I find that the issue raised by the employee is covered by the judgment given by the Hon'ble Supreme Court in the case of **Crescent Dyes & Chemicals Ltd. .v/s. Ram Naresh Tripathi**, reported in **1993 (I) CLR 253** (Paragraph 16) and the judgment given by this Court in the case of **Hindustan Uniliver Limited .v/s. Prashant S/o. Pralhadrao Nayse and Anr.** reported in **2019 (1) Bom.L.C. 225 (Bom.)**.

Learned Advocate for the employee tried to distinguish the above referred judgments by relying on the judgment given by the Hon'ble Supreme Court in the case of **Board of Trustees of the Port of Bombay .v/s. Dilipkumar Raghavendranath Nadkarni & Oths.** reported in **(1983) 1 SCC 124**. The submission on behalf of the petitioner-employee is that as the inquiry

officer is an Advocate and as the Management-representative is the person working with the Personnel Department and is legally trained, the request made on behalf of the petitioner-employee for grant of permission to engage an Advocate as his representative is required to be granted. Considering the preposition laid down in the judgments relied upon by the learned Advocate for the respondent-Management, the submission made on behalf of the petitioner cannot be accepted. In the judgment given in the case of **Board of Trustees of the Port of Bombay .v/s. Dilipkumar Raghavendranath Nadkarni & Oths.** (supra) it is not laid down that if the inquiry officer is an advocate or a legally trained person, then the employee is entitled to be represented by an Advocate. It is also not laid down that, if any employee representing the Management in the inquiry is a trained person then in that situation employee is entitled to be represented by an Advocate. The provisions of Model Standing Orders require that the representative of the Management shall be an employee of the Management and in the present case the Management is represented by one of its employee, and only because he is working with the Personnel Department of the Management it cannot be said that he is legally trained and the petitioner should be permitted to be represented through an Advocate. The order passed on the application (Exh.U-11) is just and proper and does not require any interference by this Court in the extra-ordinary jurisdiction.

Hence, the writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

(Z.A.HAQ, J.)

Namrata