

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

WRIT PETITION NO. 37/2019

MSRTC

..VS..

Sunil S/o Laxmanrao Ramelwar

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

Court's or Judge's orders

Shri V.G. Wankhede, Advocate for the petitioner

CORAM : Z.A.HAQ, J.

DATED : 21/01/2019

Heard.

The petitioner-Corporation has challenged the interim order passed by the Industrial Court staying the effect and operation of the order transferring the respondent – employee from Umred Depot to Wardha Division. According to the petitioner – Corporation, considering the repeated misconduct on the part of the respondent – employee, an enquiry is conducted against the respondent – employee and after receiving the report of the Enquiring Authority, notice is issued to the respondent – employee asking him to show cause as to why the punishment proposed by the Enquiring Authority should not be inflicted on him.

The learned advocate for the petitioner – Corporation submitted that the respondent – employee has challenged the show cause notice before the Industrial Court by filing complaint under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour

Practices Act 1971, and in those proceedings, an interim order is passed by the Industrial Court restraining the petitioner – Corporation from taking any action as per the show cause notice. It is submitted that, therefore, relying on the circular dated 22/02/2018 issued by the Managing Director of the petitioner – Corporation, the order transferring the respondent – employee is issued.

The petitioner – Corporation has not placed any material on record to show that departmental enquiry is conducted against the respondent – employee and the respondent – employee has filed complaint before the Industrial Court in which an interim order is passed, as recorded above. As the petitioner – Corporation relies on the circular dated 22/02/2018, in my view, it was necessary for the petitioner – Corporation to place on record the details about the departmental enquiry, the complaint by the respondent – employee and the interim order passed by the Industrial Court, as submitted by the advocate at the time of hearing.

As the contentions of the petitioner cannot be appreciated without the above details, the writ petition is **dismissed**. However, the petitioner – Corporation is granted liberty to file fresh petition with the necessary/required averments accompanied by the necessary/required documents. No costs.

JUDGE