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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.474 OF 2020

Mr. Somnath Vishnupant Dongare

...Petitioner

vs

Superintending Engineer, Mah. State Electricity
Distribution Co. Ltd. (MSEDCL), Nashik

...Respondent

.....

Mr. Vikas H. Shekdar, for the Petitioner.

.....

CORAM : S.C. GUPTE, J.

DATED: 22 JANUARY, 2020

P.C. :

. Heard learned Counsel for the Petitioner. This petition challenges an order passed by the Industrial Court at Nashik on a complaint of unfair labour practice. The complaint was filed by the Petitioner herein under items 3, 5, 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 ("Act"). The grievance of the Petitioner in the complaint was that his service conditions were sought to be changed in breach of law. The Petitioner was appointed as Meter Tester Grade II and was working as such with the Respondent for 20 years. By orders issued by the Respondent on 11 November 2014 and 24 November 2014, all employees of the Respondent working as Meter Tester Grade II were to be accommodated in a revised post called Machine Operator and, accordingly, the concerned employees were asked to go for training at places indicated in the orders. There were about 13 such employees (all working as Meter Tester Grade II or Grade I or Part A or B

Electricals). The office order was on the basis of a reorganisation of posts and that Meter Tester Grade II was equivalent to the post of Assistant Machine Operator; that Meter Testers were, accordingly, to be absorbed as either Deputy Machine Operators or Assistant Machine Operators and were, accordingly, required to obtain requisite qualification, for which in-house as well as in-plant training was required. Out of 13 employees, 12 joined the training programme and were absorbed in the alternative posts accordingly. The Petitioner was the sole employee, who did not join training and instead challenged the office orders dated 11 November 2014 and 24 November 2014. He filed the present complaint of unfair labour practice. The Petitioner, initially, had interim relief in the complaint. The complaint was, however, finally dismissed by the Industrial Court on 19 March 2019. That order is challenged in the present petition.

2. The Industrial Court, in its impugned order, observed that the complaint had no basis, since it did not indicate how service conditions of the Petitioner would be changed, if he was absorbed in the alternative post offered by the Respondent. The court particularly observed that, in his cross-examination, the Petitioner had admitted that he was not aware of the duties of the operator, that is to say, duties attached to the alternative post offered to him. There was nothing on record to suggest that the pay scale to be offered for the alternative post was any different from the original post of Meter Tester Grade II held by the Petitioner. The court, in the premises, held that there was nothing to show that there was any unfair labour practice under items 3, 5, 9 or 10 of Schedule IV of the Act. The court noted that the office order of 11

November 2014 was not an order of transfer, nor was an order of change of service conditions; the order was simply an administrative order and giving work to the complainant whilst absorbing him on the post of the operator, which was similar to the post of Meter Tester Grade II occupied by him. The court also noted that the letter of 24 November 2014 was nothing but an internal communication of the employer's department concerning training to be imparted to the concerned employees and centres designated for such training. The Industrial Court did not find fault with either of the two letters/orders.

3. There is no infirmity to be found in the impugned order of the Industrial Court on the complaint. There is nothing to show that either of the two orders of the Respondent-employer (orders dated 11 November 2014 and 24 November 2014) amounts to either change in service conditions or attracts the vice under items 3, 5, 9 or 10 of Schedule IV of the Act. The order, accordingly, does not merit any interference under Articles 226 and 227 of the Constitution of India.

4. The writ petition, in the premises, is dismissed.

Smita
Gonsalves

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Smita Gonsalves
Date: 2020.01.24
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(S.C. GUPTE, J.)