

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

Writ Petition No.7527 of 2019
Yogesh Chobhe Vs. Maharashtra State Road Transport Corporation

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

Court's or Judge's orders

Mr. C.V. Jagdale, Advocate for the petitioner
Mr. A.S. Mehadia, Advocate for the respondent

CORAM : MANISH PITALE, J.

DATED : JANUARY 21, 2020

By this writ petition, the petitioner has challenged judgment and order dated 31/08/2019, passed by the Industrial Court, Maharashtra, Nagpur Bench, whereby complaint filed by the petitioner under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (M.R.T.U. & P.U.L.P. Act), was dismissed. The petitioner had filed the said complaint alleging unfair labour practice committed by the respondent - Maharashtra State Road Transport Corporation under Items 9 and 10 of Schedule 4 to the aforesaid Act. It was the case of the petitioner that the respondent - Corporation was illegally seeking to recover amount of Rs.1,50,000/-, paid towards treatment of mother of the petitioner for certain medical procedure that she had undergone. According to the petitioner, the amount was paid as advance in terms of the policy of the respondent - Corporation and subsequent recovery was

wholly illegal and unsustainable.

2. The claims made by the petitioner were disputed by the respondent - Corporation and rival parties led oral and documentary evidence in support of their respective stands.

3. By the impugned judgment and order, the Industrial Court rendered findings to the effect that the petitioner had not been able to demonstrate cogent evidence on record to demonstrate that original medical bills were submitted by him before the respondent - Corporation within six months of the advance amount being paid directly by the respondent - Corporation to the concerned Hospital. The industrial Court found that as per the Circular governing such a situation, submission of the original bills within six months of disbursal of the amount was mandatory and since the petitioner had failed to prove that he had indeed complied with the said Circular, the respondent - Corporation was justified in recovering the said amount from the petitioner. On this basis, the complaint filed by the petitioner was dismissed.

4. On 15/11/2019, this Court issued notice and granted interim relief in favour of the petitioner. It is significant that even during pendency of the complaint before the Industrial Court, interim relief was operating in favour of the petitioner. As a result,

the respondent - Corporation could recover only part of the said amount from the petitioner.

5. The learned counsel appearing for the petitioner submitted that the Industrial Court failed to appreciate crucial admission given by the witness, who appeared on behalf of the respondent - Corporation. It is pointed out that in cross-examination, the witness who appeared on behalf of the respondent - Corporation admitted that the petitioner had submitted original medical bills on 10/12/2008 itself, which was within the six months period required by the relevant Circular. On this basis, it was submitted that the impugned order deserved to be set aside and complaint deserved to be allowed.

6. On the other hand, the learned counsel appearing for the respondent- Corporation emphasized on the detailed reasoning given by the Industrial Court in the impugned judgment and order. It was submitted that even as per the documents placed on record on behalf of the petitioner, there appeared to be conflicting claims about the date on which original medical bills were submitted and, therefore, the Industrial Court was justified in dismissing the complaint.

7. Heard learned counsel for rival parties and perused the material on record. There is no dispute

about the fact that as per the relevant Circular, the petitioner was required to submit original medical bills within six months of disbursal of the advance amount by the respondent - Corporation towards payment of the medical expenses. In the present case, advance amount was directly disbursed to the Hospital by the respondent -Corporation on 28/07/2008. Therefore, the petitioner was expected to submit the original medical bills by the end of January 2009. The material on record is required to be appreciated in order to come to a conclusion as to whether the petitioner had complied with the said Circular.

8. A perusal of the impugned judgment and order of the Industrial Court shows that detailed discussion is made on various documents produced by the rival parties on this crucial question as to whether the petitioner had complied with the requirement of said Circular. A perusal of the impugned judgment and order shows that the approach of the Industrial Court is that of hair splitting analysis of documents, as if looking for reasons to somehow dismiss the complaint of the petitioner. It is strange that the Industrial Court, despite the material on record came to a conclusion that the petitioner had not been able to comply with the requirements of relevant Circular.

9. In this context, the learned counsel appearing for the petitioner is justified in inviting

attention of this Court to crucial admissions given by the witness, who appeared for the respondent - Corporation in his cross - examination. The relevant portion reads as follows :

“Since July-2019 I am working as Depot Manager of Hinganghat Depot. It is true say that applications of our employees in the name of Divisional Controller are to be submitted to Depot Manager for forwarding. Medical Bills are to sent to Divisional Controller through Depot Manager. It is true to say that complainant submitted Original Medical Bills on 10/12/2008 to clerk working under depot manager. Concerned Clerk has signed on Exh.U-8 about receipt of bills. The Original Bills were submitted on 10/12/2008. In the year 2008 Pohekar were Depot Manager of Hinganghat Depot.”

10. In the face of such admission given in cross - examination to the effect that the petitioner had submitted original medical bills with the Depot Manager of the respondent - Corporation on 10/12/2008, the claim of the petitioner stood vindicated. But, the Industrial Court, instead of paying attention to the crucial admission made in cross-examination, devoted time unnecessarily on documents on record, which perhaps did not have direct relevance to the main point in controversy. In fact, the learned counsel appearing for the petitioner invited attention of this Court to the documents on record, including Exh.U-14 dated 21/07/2009, wherein the petitioner had specifically stated before

the respondent - Corporation that original medical bills had been already submitted and since they had been misplaced at the office of the respondent - Corporation photocopies of the same were being submitted. The respondent - Corporation has not denied the said documents. Despite the aforesaid clear admission given by the witness appearing on behalf of the respondent – Corporation, the industrial Court chose to discuss in detail documents on record to come to a conclusion that the petitioner had not satisfied the requirement of the aforesaid Circular regarding submission of original medical bills within a period of six months.

11. In view of above, this Court finds that the Industrial Court has committed error in dismissing complaint of the petitioner and upholding action of the respondent - Corporation in seeking to recover the amount towards medical expenses from the petitioner.

12. Therefore, the impugned judgment and order passed by the Industrial Court is unsustainable. It is quashed and set aside. The writ petition is allowed. As a consequence, the complaint filed by the petitioner is allowed. The action of the respondent – Corporation in seeking to recover the said amount is found to be an unfair labour practice. Accordingly, the respondent - Corporation is restrained from recovering any amount from the petitioner on the aforesaid ground. The amount already recovered from the

petitioner shall be refunded to him by the respondent - Corporation within a period of four weeks from today.

13. The writ petition is disposed in above terms.

JUDGE

MP Deshpande