

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1742 OF 2022

Akash Thomas Joseph] ... Petitioner

Vs.

Chatrapati Pramilaraje Sarvopchar]
Hospital Through Dean & Anr.] ... Respondents

...

Mr. Sanjay Kshirsagar for the petitioner.

Ms. Madhubala Kajale, 'B' Panel A.G.P. for the State.

...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 21ST FEBRUARY, 2022.

P.C. :-

1. I have considered the submissions of the learned counsel for the petitioner and the learned A.G.P. appearing for the State. With their assistance, I have gone through the petition paper-book.

2. The petitioner has approached the Labour Court by preferring Complaint (ULP) No.22 of 2021 only on a notice dated

04/05/2021 calling upon him to explain whether his deceased father had a third child, after the cut off date. On such a notice calling for the family details, the petitioner rushed to the Labour Court contending that the employer is going to dismiss or terminate his services. He was appointed on compassionate basis, after his father passed away on 08/11/2016. The mother of the petitioner had initially approached the Maharashtra State Administrative Tribunal by preferring Original Application No.289 of 2019. The Tribunal disposed off the application after the respondent expressed it's willingness to appoint a family member, on compassionate basis. The petitioner was, therefore, appointed as a ward boy, on 31/03/2021.

3. The Labour Court has rejected the application Exh.U-2, filed by the petitioner under Section 30(2) of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971 (for short, "**the 1971 Act**"), by concluding that the petitioner is duty bound to inform the respondent as regards the details sought by the respondent vide the concerned show cause notice. In fact, the said notice cannot be termed even as a show cause notice, as it only calls for the information about the number of children that were born to the father of the petitioner and whether more than two children were born, after the cut off date.

4. The Industrial Court vide it's judgment dated 07/01/2022

agreed with the *prima facie* conclusion of the Labour Court that, there is hardly any material, on the basis of which, the employer could be said to have indulged in Unfair Labour Practices, after calling upon the petitioner to submit the family details. Revision (ULP) No.158 of 2021 was, therefore, dismissed.

5. In my view, the law laid down by the Hon'ble Apex Court in **Hindustan Lever Limited v. Ashok Vishnu Kate & Ors.**¹ and especially the note of caution struck by the Apex Court in paragraph No.54, has been abused by the filing of such complaint.

6. In view of the above, I do not find that the impugned order of the Labour Court and the judgment of the Industrial Court could be termed as being perverse or erroneous. This petition being devoid of merits is, therefore, dismissed. Ad-interim protection stands vacated.

7. Needless to state, if the respondent passes any order which affects the petitioner, he would be at liberty to avail of a remedy, as is permissible in law for the redressal of his grievance.

[RAVINDRA V. GHUGE, J.]

¹ (1995) 6 SCC 326