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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6787 OF 2022**

Pune Mahanagar Parivahan
Mahamandal Ltd.

.... Petitioner.

V/s

Mr. Chetan Bharat Dube

.... Respondent.

Mr. Rohit Sakhadeo for the Petitioner.

CORAM: NITIN W. SAMBRE, J.

DATE: JUNE 14, 2022

P.C.:-

1] Vide order dated 9/1/2020 Respondent-employee's status of employment was converted from temporary to that of permanent employee in regular pay-band. Alleging that Respondent remained unauthorizedly absent for a period of 1/7/2020 to 29/8/2020, Respondent came to be charge-sheeted, which inquiry is pending.

2] Pending aforesaid inquiry, Petitioner-employer issued order dated January 20, 2022, thereby changing service conditions of the Respondent-employee by bringing him back to the status of badli kamgar from that of permanent employee, which has prompted him to

file Complaint (ULP) No.09 of 2022. Respondent-employee invoked provisions of sub-section (2) of Section 30 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, seeking interim protection, whereby stay was sought to the order dated 20/01/2022 reverting him to the post of badli kamgar, which is allowed by the order dated 21/2/2022. As such, this Petition by the employer.

3] Counsel for the Petitioner Mr. Sakhadeo would strenuously urge that order conferring permanency is on certain conditions amongst which, Petitioner shall refrain from proceeding on unauthorized leave, failing which, he would be brought back to his earlier status as that of contract labour/hangami Kamgar. Counsel would further invite attention of this Court to the unauthorized absence of the Respondent-employee for a period from 1/7/2020 to 29/8/2020 i.e. for a period of 60 days. It is claimed that since such absence was unauthorized, Respondent is already charge-sheeted. It is claimed that in the aforesaid backdrop, the Tribunal committed an error in showing indulgence in favour of the Respondent, thereby

granting interim relief staying the order of reversion. According to him, by granting interim relief virtually complaint of Respondent stands allowed. As such, he submits that granting of such interim relief amounts to granting final relief in the matter. Further contentions are, since the order of granting permanency is conditional, it cannot be said that Petitioner is not authorized to pass a consequential order, which is stayed by the Industrial Court. He would further urge that similarly placed employees are also proceeded against and in case if order impugned is sustained, there will be flood of litigations.

4] I have appreciated the submissions. The fact as regards conferring status of permanent employee on the Respondent who is working with the Petitioner since 2009 is not in dispute. Once the Respondent was a permanent employee of the Petitioner, punishment which is awarded to him is without following due process of law viz by holding inquiry and reaching to a conclusion that absence of the Respondent was unauthorized. Rather, it is brought on record that Respondent-employee remained absent during Covid-19 Pandemic.

In the aforesaid backdrop, on the one hand, Petitioner is conducting inquiry against the Respondent-employee for his alleged unauthorized absence and on the other hand Petitioner-employer has punished him without following due process of law by withdrawing his status as that of permanent employee.

5] In this backdrop, in my opinion, Industrial Court was justified in granting interim relief in favour of the Petitioner, thereby staying the order of withdrawing status of that of permanent employee. No case for interference is therefore made out. Petition fails and same stands dismissed.

(NITIN W. SAMBRE, J.)