

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

WRIT PETITION NO. 3195 OF 2022

HNI Office India Limited

Vs.

Padmakar Tamradwaj Choudhari

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. H.V. Thakur, Advocate for petitioner.

CORAM : MANISH PITALE J.

DATE : 14.06.2022.

By this writ petition, the petitioner i.e. the employer is aggrieved by order dated 04.05.2022 passed by the Industrial Court No.4, Nagpur. The principal contention raised on behalf of the petitioner is that the Industrial Court committed a grave error of law in holding that application for interim relief could be decided even before a decision was rendered on the preliminary issue concerning validity of the enquiry.

2. It is submitted that the said view taken by the Industrial Court is in the teeth of settled position of law as evident from a series of judgments of the Hon'ble Supreme Court and this Court. The petitioner is concerned that if the said view adopted by the Industrial Court in the impugned order is not

interfered with, it may have an effect or other litigations of the petitioner pending before the Labour Court and the Industrial Court, where question on deciding prayer for interim relief is pending.

3. This Court would have considered the pure question of law sought to be raised on behalf of the petitioner – employer. But, in the peculiar facts and circumstances of the present case, this Court is not inclined to interfere with the impugned order or to entertain the present writ petition.

4. The reason being that the Industrial Court in the impugned order has taken note on the fact that the application for interim relief filed by the respondent – employee had remained pending for a long period of four years. It was also found that the state of affairs before the Labour Court was such that the Court as well as the counsel representing the parties did not care to expedite the matters and take up either the issue of validity of the enquiry as a preliminary issue or the question of grant of interim relief. The observations made by the Industrial Court in this regard are as follows :

“29. The above course of events before the trial Court, reflects very sordid state of affairs. By complainant’s Advocate’s own application and

conduct, he had actually given up hearing on application for interim relief. Vide application Exh. U-6, he had himself stated before the Court to proceed with hearing on preliminary issues. Obviously, the question of interim relief (interim reinstatement in the present case) had become stale. Hence, one fails to understand where comes the question of considering the application for interim relief after 4 years of filing of the case and after 3 years of framing of issues? By the time, Labour Court decided the application Exh. C-7(A), the application for interim relief had already become stale. If, the Advocate for the complainant really wanted to do justice to his client, he should have either pressed for hearing of interim relief application at the beginning itself or should have atleast argued on preliminary issues as stated by him in his application Exh. U-6. The record shows that all the while the Advocate for the complainant was dis-interested in pressing or arguing an application for interim relief, or even on the preliminary issues.

30. It is further seen that even the concerned Labour Court was oblivious of preceding events and neither it bothered to look into roznama while postponing for consideration of application for interim relief to a later stage. Looking to the aforesaid course of event, the Labour Court ought to have simply filed application for interim relief, as having not argued on the appropriate occasion and also having regard that the issues have been

already framed and the case has already proceeded for hearing on preliminary issues. However, passing an order of postponing hearing on stale application for interim relief would only add to the complexities and further unduly prolong the decision of the case indefinitely.

31. Hence, having considered the aforesaid sequence of events, this Court finds it utmost necessary to invoke its power of superintendence under Section 44 of the M.R.T.U. & P.U.L.P. Act and quash and set aside the impugned order dt. 14/01/2022, with direction to proceed with the hearing on preliminary issues forthwith and decide the same in any case within one month from today, without expecting any extension of time. It is further expected from the Labour Court to conclude the trial within span of 3 months from the date of decision on the preliminary issues, unless stayed by any superior Court. The application for interim relief having become stale, it would be undesirable for the Labour Court to spend its time on the decision of the same. Instead of that, it should utilize its valuable time on final adjudication of the case.”

5. Thereafter, the Industrial Court was constrained to dispose of the revision application in the following manner:

“32. In view of the forgoing reasons, I, therefore, record my findings to point no.1 in the affirmative and proceed to pass the following order.

ORDER

01. The Revision Application is hereby allowed.

02. The impugned order dt. 14/01/2022 passed by the First Labour Court, Nagpur below Exh.C-7(A) in Complaint (ULP) No.96/2018 is hereby quashed and set aside.

03. The application for interim relief Exh. U-2 is directed to be filed, as being stale.

04. The Labour Court shall proceed to hear preliminary issues on validity of enquiry forthwith, and shall decide the same within period of one month from the date of this order.

05. Upon it's decision on preliminary issues, the Labour Court shall proceed for the remaining part of trial, and shall in any case dispose of the same on merits within 3 months from the date of decision of preliminary issues.

06. Copy of this order along with record and proceeding be send to the First Labour Court, Nagpur for information.

07. Parties to bear their own cost.

Ordered accordingly.

6. It is significant that by the impugned order, although the Industrial Court has proceeded to set aside the order of the Labour Court, it has

been specifically held that the application for interim relief at Exhibit U-2 is directed to be filed, by treating the same as being stale. This takes the sting out of the challenge raised by the petitioner before this Court in the present writ petition. In view of the expedited schedule specified by the Industrial Court in the above quoted portion of the impugned order, this Court in writ jurisdiction is not inclined to interfere with the impugned order, in the peculiar facts and circumstances of the present case.

7. It is made clear that the question of law raised on behalf of the petitioner in the present writ petition is kept open to be decided in an appropriate case.

8. It is further directed that the parties shall co-operate with the Labour Court for disposal of the complaint, which includes the preliminary issue as well as the remaining part of the trial in terms of the schedule specified in the above quoted portion of the impugned order.

9. The writ petition stands disposed of.

JUDGE