

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9776 OF 2023

M/s. Airtech Systems India Pvt. Ltd.

.. Petitioner

Versus

State of Maharashtra & Anr.

.. Respondents

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- Mr. Upendra Mahadik, Advocate for Petitioner.
- Mr. Sanjay Rayrikar, AGP for Respondent No.1 – State.
- Mr. G. R. Naik i./by M/s. G. R. Naik & co., Advocate for Respondent No.2 – Union Maharashtra Rajya Rashtriya Kamgar Sangh.

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 04, 2023

P.C.:

1. Heard Mr. Mahadik, learned Advocate for Petitioner, Mr. Rayrikar, learned AGP for Respondent No.1 – State and Mr. Naik, learned Advocate for Respondent No.2 – Union Maharashtra Rajya Rashtriya Kamgar Sangh.

2. The present Writ Petition challenges two concurrent orders passed by the First Labour Court, Thane and Industrial Court, Thane. Order dated 22.11.2018 passed by the First Labour Court, Thane was itself an interlocutory order in original Complaint (ULP) No.134 of 2018, *inter alia*, with respect to allowing the 21 workers to report on duty.

3. As informed by Mr. Mahadik, the Petitioner – Company has subsequent to passing of the impugned order by the Labour Court

allowed 8 workers out of 21 not only to report on duty but also allowed them to continue working with the Petitioner – Company from June, 2019.

4. However is so far as the remaining 13 workers are concerned, the Petitioner – Company has not allowed them to report on duty as also, not allowed them to work in the Company. Though Mr. Mahadik would submit that had these 13 workers reported for work and shown their willingness to join work, the Company would have allowed them to join work just like the other 8 workers. However according to his instructions these 13 workers have abandoned their employment and are employed or working elsewhere gainfully.

5. This submission made by Mr. Mahadik is strongly refuted by Mr. Naik, learned Advocate appearing for Respondent No.2 who would however submit that in the case of these 13 workers, they had specifically reported for duty but were not allowed by the Petitioner – Company to work.

6. The timeline, in the present case shows that original complaint was filed on 16.07.2018 and more than six and half years have passed thereafter. The complaint is still pending. The present Writ Petition was filed in this Court in the year 2020 and has been heard by the Court today.

7. After going through the above timeline, this Court has suggested to Mr. Mahadik, learned Advocate for the Petitioner – Company and Mr. Naik, learned Advocate for the contesting Respondent No.2 that rather than determining and adjudicating the orders passed at the interlocutory stage, *inter alia*, requiring reporting on duty, it would be in the interest of justice if the original Complaint (ULP) No.134 of 2018 filed before the Labour Court, Thane is itself decided expeditiously in accordance with the law.

8. In that view of the matter, the impugned order dated 09.03.2020 passed by the Industrial Court, Thane dismissing Revision Application of the Petitioner – Company is quashed and set aside.

9. It is seen that 8 workers who have been allowed by the Company to report back on work and have been taken back on work have already withdrawn their names from the original complaint and have filed appropriate Affidavit to that effect before the learned Labour Court and in that view of the matter, the original Complaint (ULP) No.134 of 2018 will now be prosecuted by 13 workers only. This position is confirmed by Mr. Naik who appears for Respondent No.2 – Union espousing the cause of the workers.

10. Though across the Bar submissions are made by Mr. Mahadik to the extent that one of the reason for these 13 workmen to not report on duty is that they are already employed elsewhere

gainfully, that would be a question for the Petitioner – Company to prove in evidence before the learned Labour Court in the complaint filed accordance with law. I need not detain myself with it at this stage.

11. At this stage, considering the above observations, it would be appropriate to set aside the order dated 22.11.2018 passed below Exhibit U-2 by the First Labour Court, Thane and direct the learned Labour Court, Thane to decide Complaint (ULP) No.134 of 2018 strictly in accordance with law.

12. Both the learned Advocates have urged this Court to accord a fixed timeline for disposing of the pending complaint and assure the Court that they shall not take any unnecessary adjournment before the learned Labour Court.

13. In view of the above, it is directed that the learned Labour Court shall adjudicate and decide Complaint (ULP) No.134 of 2018 preferably within a period of four months from today. Both the parties are directed to remain present before the learned Labour Court on 07.12.2023 at 11.00 a.m. for arriving at the Schedule for hearing of the pending complaint.

14. Needless to state that no opinion is expressed on the merits of the case by this Court and all contentions of parties namely Petitioner and Respondent No.2 are expressly kept open and the

learned Labour Court shall not be influenced by any observations made by this order as also, order passed by the learned Industrial Court which has been quashed and set aside and the previous order passed by the First Labour Court which has also been quashed and set aside.

15. With the above directions, Writ Petition is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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