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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3223 OF 2021

Solapur Mahanagar Palika,
Dr. Babasaheb Ambedkar Karmachari
Sanghatana .. Petitioner

Versus

Commissioner, Solapur Mahanagarpalika and
Anr. .. Respondents

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- Mr. P.C. Kamble, Advocate for Petitioner.
 - Mr. Dilip Bodake, Advocate for Responded Nos.1 and 2.
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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 22, 2023.

P.C.:

1. Heard Mr. Kamble, learned Advocate for Petitioner and Mr. Bodake, learned Advocate for Respondent Nos.1 and 2.

2. The order impugned in the present Writ Petition is passed by the Revision Authority in Revision Application filed by the Petitioner – Union representing the original complainants (300 in number – workmen) in Complaint (ULP) No.2 of 2019. This Complaint was dismissed by order dated 10.05.2019. The Petitioner – Union being aggrieved preferred Revision before the learned Industrial Court wherein the impugned order dated 11.10.2019 came to be passed. The Revision also stands rejected.

3. It is argued by the Petitioner that since it was apprehended by members of the Petitioner - Union that their services would be terminated in view of the Respondent – Corporation having invited tenders and taken steps to appoint Contractors for garbage collection, they had filed the above proceedings.

4. Mr. Kamble, learned Advocate for the Petitioner – Union has fairly informed the Court that services of members of the Petitioner – Union have been terminated and at present they are no longer employed with the Corporation for any work whatsoever. However, in the meanwhile, Petitioner – Union had also filed a Complaint before the Industrial Court under Section 30(2) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short “**MRTU and PULP Act**”). Incidentally, the relief claimed in this Complaint before the Industrial Court was the same as the Complaint (ULP) No.2 of 2019.

5. Petitioner is confronted with two concurrent orders passed by the learned Labour Court and the learned Industrial Court in revision proceedings. I have perused both the orders passed by the concerned Courts.

6. *Prima facie*, I do not feel that any interference is required in both the orders passed by the learned Labour Court as well as the

Industrial Court. Though it is argued by Mr. Kamble that appointment of members of the Petitioner – Union was done pursuant to advertisement issued by Corporation which is appended at page Nos.19 and 20 of the Petition, I am not inclined to accept the submissions of Mr. Kamble. It is so because the advertisement at page No.19 dated 01.01.2015 does not stipulate any terms and conditions. It is in respect of filling up of 200 posts in the Corporation. There are no terms and conditions. In so far as the advertisement at page No.20 is concerned, it is dated 30.04.2015 and in respect of filling up of 236 posts. In this advertisement one of the main term and condition is that persons appointed shall not be employed for more than three months and thereafter they shall be given a break of two months and under no circumstances their services shall be employed continuously so as to enable them to complete 240 days and claim any permanency.

7. Mr. Kamble would submit that pursuant to both the above advertisements members of the Petitioner – Union were employed by the Corporation. If the condition in the second advertisement is to be considered, then admittedly members of the Petitioner – Union had clear and absolute knowledge about the fact that their employment was purely on a temporary basis for a fixed period only without they being entitled to claim any permanency whatsoever in their posts.

8. Both learned Courts i.e. the Labour Court and the Industrial Court have returned cogent findings which I am not inclined to disturb. Hence, both impugned orders are sustained.

9. Mr. Kamble has however submitted that simultaneously Petitioner – Union had also filed a parallel proceeding being Complaint (ULP) No.27 of 2018 before the Industrial Court under Section 30(2) of the MRTU and PULP Act in respect of the same cause of action for seeking injunction from removing its members from their posts. I have perused the said Complaint which is at page No.63 of the Petition. The relief prayed for in the Complaint is at page No.71 of the Petition. This Complaint was filed on 24.05.2018. On 25.05.2018, ad-interim order was passed by the Industrial Court directing the Corporation not to terminate the services of members of the Petitioner – Union.

10. Next I am informed by Mr. Kamble as well as Mr. Bodake both that by order dated 09.10.2018 this Complaint was disposed of by the Industrial Court by a direction that until the original Application i.e. Complaint (ULP) No.9 of 2017 is disposed of by the learned Labour Court, until that time members of the Petitioner – Union shall not be removed from service. That order is appended at page No.74 of the Petition.

11. However, considering that the original application i.e. the principal Complaint (ULP) No. 9 of 2017 stood disposed against the

Petitioner – Union and the Revision proceedings also stood rejected by the impugned order.

12. In view of the above observations and findings in paragraph Nos.6 to 8 herein above, Writ Petition is dismissed.

13. However, there shall be no order as to costs.

[MILIND N. JADHAV, J.]

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