

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14397 OF 2022
WITH
WRIT PETITION NO. 14398 OF 2022

Laxmikant Arun Nalage

...Petitioner

Versus

Coca Cola India Pvt. Ltd.

...Respondent

...

Mr. Sandeep Phatak a/w Mr. Adhik Kadam, for Petitioner in both Petitions.

Mr. Ameya Gokhale, Ms. Radhika Indapurkar, Mr. Manas Kotak i/by
Mr. Shardul Amarchand Mangaldas & Co., for Respondent in both Petitions.

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CORAM : SANDEEP V. MARNE, J.

DATE : OCTOBER 20, 2023

P.C.:

1. These Petitions are filed challenging the judgments and orders dated 28 September 2022 passed by the Industrial Court, Pune on Applications at Exhibit U-2 filed by the Petitioner in his Appeal (IESO) Nos.4 of 2022 and 5 of 2022. The Petitioner has instituted the Appeals challenging the findings and recommendations of the Internal Complaints Committee (ICC) constituted under provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 (the 'POSH Act'). In those Appeals he filed applications at Exhibit U-2 seeking temporary relief

of restraining the employer from taking steps in respect of the findings of the ICC dated 27 June 2022. It is Petitioner's case that on 21 July 2022, the Industrial Court passed an ad-interim relief restraining the employer from terminating his services without following due process of law. However, it is the case of the employer that on 20 July 2022, it already passed an order terminating the services of Petitioner. Later Petitioner's applications at Exhibit U-2 have been heard and decided by the Industrial Court by orders dated 28 September 2022.

2. Mr. Phatak, the learned counsel appearing for the Petitioner has taken me through the manner in which the ICC has conducted the inquiry as well as its findings. According to him the conduct of inquiry as well as the findings of the ICC are in violation of the provisions of the said Act. According to him immediately upon receipt of the report of the ICC, services of the Petitioner are terminated in violation of provisions of Section 13 of the POSH Act. He would further submit that the services of the Petitioner are actually terminated after passing of the ad-interim order by the Industrial Court on 29 July 2022. He would submit that if the termination was already issued on 20 July 2022 there was no occasion for the employer to pass another order on 29 July 2022 to dispatch the same by RPAD.

3. As of now, rightly or wrongly, the services of the Petitioner have been terminated. He will have to institute substantive proceedings challenging the termination letter. In that view of the matter, it would not be necessary to adjudicate the correctness of the interim order passed by the Industrial Court on 28 September 2022. If indeed the termination order of the Petitioner is found to be invalid by the Industrial Court in the substantive proceedings so filed, the Industrial Court can grant all the necessary relief including that of reinstatement and backwages in favour of the Petitioner. Since the services have already been terminated, either on 20 July 2022 as contended by the employer or on 29 July 2022 as contended by the Petitioner, it would be appropriate that the Petitioner challenges the said termination by filing substantive proceedings.

4. In that view of the matter, both Writ Petitions are disposed of by granting liberty to the Petitioner to challenge termination order. All contentions of the parties raised in the Petition are left open.

5. It is clarified that the Court before which said proceedings are filed shall not be influenced by the findings recorded in the impugned orders while deciding such substantive proceedings.

(SANDEEP V. MARNE, J.)