

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

WRIT PETITION NO. 1402 OF 2018

Sandip Manikrao Kalmegh
Aged about 30 Years, Occ. Service,
R/o Rajna Purna, Tq. Chandur Bazar,
Dist. Amravati

...Petitioner

// VERSUS //

Executive Engineer & Competent
Authority, Maharashtra State
Electricity Distribution Company
Limited, Urban Division, Amravati,
Tq. & Dist. Amravati

... Respondent

Shri A.S.Dhore, Advocate for the petitioner.

Shri C.A.Babrekar, Advocate for the sole- respondent.

CORAM : ANIL S. KILOR, J.

DATED : 22nd FEBRUARY, 2023.

ORAL JUDGMENT :

Heard. Rule. Rule made returnable forthwith by consent of the parties.

2. In this writ petition, the challenge is raised to the order dated 15th January, 2018 rejecting the application for interim relief in Complaint (ULP) No. 79 of 2017 filed under Section 30(2) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (in short 'MRTU and PULP Act, 1971') and the order upholding the same by the Industrial Court, Amravati vide impugned judgment and order dated 12th February, 2018 in Revision ULP No. 9 of 2018.

3. The case of the petitioner is that the petitioner was appointed in the respondent company on contractual basis for three years and as per one of the terms and conditions of the appointment that on finding the service of the petitioner satisfactory and subject to the vacant post and backlog, the petitioner would be absorbed.

4. On completion of three years period, a show cause notice was issued dated 9th November, 2017 on the ground that the offence was registered against the petitioner under Sections 498-A and 306 of Indian Penal Code and thereby explanation was called from the petitioner why his service shall not be discontinued.

5. The said show cause notice was challenged before the learned Labour Court by filing a complaint No. 79 of 2017 along with application for interim relief which came to be rejected on 15th January, 2018. The revision was carried against the same. The learned Industrial Court maintained the said order by impugned judgment and order dated 12th February, 2018, hence, this writ petition.

6. Learned counsel for the petitioner points out that during the pendency of this writ petition, the stay is operating in favour of the petitioner and accordingly, the petitioner is continued in service. It is submitted that in the meantime on conclusion of the trial, the petitioner has been acquitted. He therefore submits that even the reason for issuance of show cause notice, does not survive.

7. On the other hand, learned counsel for the respondent company submits that even though the petitioner has been acquitted, still the fact remains that the offence was registered against him and the show cause notice was rightly given to him as he was working on contractual basis and he was not a permanent employee.

8. After going through the record and the impugned orders, it is evident that show cause notice was issued calling explanation from the petitioner why the contractual services should not be discontinued, in view of the fact that the offence was registered against the petitioner under Section 498-A and 306 of Indian Penal Code. The record further shows that the petitioner has now been acquitted by giving benefits of doubt and thus, the reason for issuance of show cause notice does not survive.

10. In the backdrop of above referred facts coupled with the fact that petitioner continued in services because of interim protection, I am of the opinion that the petition needs to be allowed with further direction to the Labour Court to decide the complaint expeditiously. Accordingly, I pass the following order.

i. The writ petition is allowed;

ii. The interim order dated 15th January, 2018 passed by the Labour Court in Complaint No. 79 of 2017 and 12th February, 2018 passed by the Industrial Court in Revision ULP No. 9 of 2018 are hereby quashed and set aside and thereby the application for grant of interim

relief filed by the petitioner under Section 30(2) of M.R.T.P and P.U.L.P Act is allowed;

iii. The Labour Court is directed to decide the complaint expeditiously and in any case within six months from the date of this order.

The Rule is made absolute in above terms.

[ANIL S. KILOR, J.]

SACHINDANAND
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