

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6418 OF 2021

ALONGWITH

INTERIM APPLICATION NO. 2732 OF 2021

ALONGWITH

INTERIM APPLICATION NO. 2222 OF 2022

M/s. G 4 Secure Solutions (India)

Pvt. Ltd. And Ors.

...Petitioners

V/s.

Rajendra Vithal Pawar

...Respondent

Mr. Deepak Rane h/f. Mr. Jitendra Pathade, for the Petitioner.

Ms. Neeta Karnik, for the Respondent.

CORAM : SANDEEP V. MARNE, J.

Dated : 2 January 2024.

P.C. :

1. By this petition, the Petitioner has challenged the Order dated 10 October 2019 passed by the Industrial Court, Mumbai in application at Exhibit-U2 filed in Complaint (ULP) No. 354 of 2018. By the impugned Order, the Industrial Court has directed the Petitioner to assign deployment to the Respondent and to pay him monthly wages from the date of the Order.

2. The Petitioner-employee has placed the Respondent-employee under suspension vide show cause notice and suspension order dated 16 January 2015 on allegation of assaulting Mrs. Rawat. After the suspension order, domestic enquiry is instituted by issuance of chargesheet dated 23 October 2015. The suspension was revoked by letter dated 30 June 2017. However, it appears that the Petitioner has failed to assign any duty to the Respondent despite revocation of suspension, which necessitated filing of Complaint (ULP) No. 354 of 2018 *inter-alia* seeking a direction for assignment of duty and payment of wages. In his complaint, the Respondent filed application at Exhibit-U2, on which Industrial Court has proceeded to pass order dated 10 October 2019 directing the Petitioner–Management to assign deployment to the Respondent and to pay him monthly wages from the date of the order.

3. When the petition came up before this Court on 22 February 2021, this Court stayed the order of the Industrial Court on condition of Petitioner depositing the entire amount in terms of Clause-2 of the Order dated 10 October 2019. It appears that the Petitioners have accordingly deposited an amount of Rs.3,28,763/- in the Industrial Court. By Order dated 8 March 2022, this Court vacated the interim order on account of non-appearance on the part of the Petitioner. Subsequently, by Order dated 6 April 2022, this Court has stayed further proceedings in Misc. Criminal Complaint (ULP) No. 55 of 2019 filed for non-implementation of the Order dated 10 October 2019.

4. The learned counsel appearing for the Petitioner would rely upon the provisions of Sections 10 and 13 of the Private Security Agencies (Regulation) Act, 2005 in support of his contention that the Petitioner cannot assign duty to the Respondent who is found to have been involved in commission of crime. He would submit that if the Respondent is assigned any duty, the Petitioner is at risk of cancellation or suspension of its license. On the contrary, it is the contention of the learned counsel appearing for the Respondent that the disqualification for appointment and continuation as Security Guard applies only in the event of conviction. She would further submit that after issuance of chargesheet dated 23 October 2015, the Petitioner has failed to conduct any enquiry and the Respondent is erroneously kept away from duties.

5. The impugned Order dated 10 October 2019 is passed in Interim Application filed at Exhibit-U2. The main Complaint bearing No. 354 of 2018 still continues to remain pending before the Industrial Court, Mumbai. By now, period of more than four years has elapsed since passing of the impugned order. Therefore, instead of determining the correctness of the order dated 10 October 2019, at this distant date, it would be appropriate that the Industrial Court takes up the complaint for final decision. In the meantime, the Petitioner would be at liberty to complete the domestic enquiry initiated vide chargesheet dated 23 October 2015.

6. Accordingly, the petition is **disposed of** by requesting the Industrial Court to expedite the hearing of Complaint (ULP) No. 354 of

2018 and to make an endeavour to decide the same as expeditiously as possible preferably within a period of 8 months from today. The amount of wages deposited by the Petitioner with the Industrial Court shall remain deposited till the final disposal of the complaint.

7. With the above observations, the Writ Petition is disposed off. All pending Interim Applications filed therein also stand disposed of.

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SANDEEP V. MARNE, J.