

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

WRIT PETITION NO. 4235 OF 2024

The Brihanmumbai Electricity Supply
and Transport Undertaking and anr.

}*Petitioners*

: *Versus* :

The BEST Workers Union and anr.

}....*Respondents*

Mr. Nikhil Sakhardande, Senior Advocate *with Mr. Sagar Shetty, Ms. Shubhra Paranjpe, Ms. Shraddha Nagaonkar, Ms. Aprajita Mahto i/by. Mr. Sagar Shetty, for the Petitioners.*

Mr. Kartikeya Bahadhar *i/by. Mr. Kaustubh Gid and Baravkar, for Respondent No.2.*

CORAM : SANDEEP V. MARNE, J.

Dated : 10 July 2024.

P.C. :

1) **Rule.** Rule made returnable forthwith. With the consent of the parties, the petition is taken up for final disposal.

2) The challenge in the present petition to the order dated 26 July 2023 passed by the Member, Industrial Court, Mumbai allowing application at Exhibit-U-2 and granting interim relief in the form of stay of the punishment order dated 23 June 2023.

3) I have heard Mr. Sakhardande for the Petitioners and Mr. Bahadhar for the Respondents.

4) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the penalty of reduction in Grade Pay by one step for two years is imposed after conduct of disciplinary proceedings against Respondent No.2. Validity of the said punishment order will have to be determined by the Industrial Court while deciding the complaint finally. In that view of the matter, there is no question of staying the punishment order during pendency of the complaint. In the event, Respondent No.2 succeeds in satisfying before the Industrial Court that the punishment order is invalid, the same can be set aside and consequential benefits can be paid to Respondent No.2. However, there is no question of staying punishment order during pendency of the complaint. In my view, therefore the Industrial Court has exceeded its jurisdiction in staying the penalty order during pendency of the complaint. The impugned order dated 26 July 2023 is accordingly set aside. The Writ Petition is allowed in the above terms.

5) It is however clarified that nothing observed either in the order dated 26 July 2023 or in the present order shall influence the Industrial Court while deciding the complaint finally.

[SANDEEP V. MARNE, J.]

Note : Corrections are carried out in para-4 only pursuant to speaking to minute order dated 22 August 2023

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