

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

WRIT PETITION NO. 14338 OF 2024

Aparana Tanaji Nimbalkar

... Petitioner

Versus

Savitribai Phule Pune

University , Pune And Ors

... Respondents

Mr. S.C. Naidu *a/w Divya Yajurvedi & Mr. Pradeep Kumar for the Petitioners.*

Mr. Ram Apte, *Sr. Advocate i/b Mr. Rajendra Anbhule a/w Ms. Nisha Ahire & Ms. Pooja P. for Respondent Nos. 1 to 3.*

Mrs. M.S. Bane, *AGP for Respondent-State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 6 MARCH 2025.

P.C. :

1) The Petition challenges Order dated 18 September 2024 passed by the Member, Industrial Court, Pune dismissing Complaint (ULP) No. 8 of 2021 on the ground of lack of jurisdiction. The Industrial Court has held that the real grievance of the three Complainants (including Petitioners), in Complaint (ULP) No. 8 of 2021 was termination of their services, which issue can be raised only before Labour Court under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (**MRTU and PULP Act**).

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2) Complaint (ULP) No. 8 of 2021 was filed by three persons Petitioner, Manjula Gaikwad and Mangesh Waje with a complaint that the university was not permitting them to resume the duties and for various other benefits. Actually, the Petitioner had slightly different grievance from that of the other two employees. Petitioner had applied for maternity leave from 14 November 2019 till 12 February 2020. She delivered child on 18 December 2019 and applied for further leave from 13 February 2020 to 7 June 2020. So far as her grievance with regard to non-extension of maternity leave is concerned, Order dated 31 August 2021 has already been passed by the Government Labour Officer–Inspector under the Maternity Benefit Act, 1961 directing the Respondents-University to sanction her the maternity leave. The Petitioner perceived that in addition refusal to grant maternity leave, the Respondents-University had actually discontinued her services with the other two employees namely Manjula Gaikwad and Mangesh Waje and such discontinuation from service was illegal. This is a reason why Petitioner proceeded to file Complaint (ULP) No. 8 of 2021 on 16 January 2021, even when her proceedings under the Maternity Benefit Act were pending before the Inspector till 31 August 2021. No doubt the learned Inspector under the Maternity Benefit Act has directed not just grant of maternity leave, but also reinstatement of the Petitioner in service by order dated 31 August 2021. However, in the present case Petitioner's discontinuance from service is not really attributable to her absence due to pregnancy. There is an independent reason for non-continuation of services of the Petitioner, which the Petitioner herself believed to be in common to that of the other two employees Manjula Gaikwad and Mangesh Waje. Even perusal of the written statement filed by Respondents-University in Complaint (ULP) No. 8 of 2021 would indicate that there was

independent reason for the University not to continue of the services of the trio for specified reasons. Thus, the subject matter of enquiry before the learned Inspector under the Maternity Benefit Act and before the Industrial Court in Complaint (ULP) No. 8 of 2021 were entirely different. The Industrial Court has already granted liberty to the Petitioner and two other employees to approach Labour Court with regard to their grievance relating to non-continuation in service beyond June 2020. It appears that the other two employees have not challenged the said order of the Industrial Court and it is only Petitioner, who has separated herself from the other two employees for challenging the order passed by the Industrial Court, possibly because she feels that the order passed by the learned Inspector on 23 August 2021 grants her reinstatement. However as observed above, Petitioner's discontinuation from service is not really attributable to her absence for pregnancy.

3) In the light of the above circumstances, Petitioner will have to exercise remedy before the Labour Court *qua* her grievance relating to discontinuation post June 2020. However, till she was continued in service or was to be continued in service till June 2020, she will have paid all the benefits under the Maternity Benefits Act with effect from 14 November 2019. This would be the correct reconciliation of the conflicting proceedings initiated by the Petitioner. Therefore the order passed by the learned Inspector on 23 August 2021 will have to be confined the grant of benefits under the Maternity Benefits Act till the time the three employees were continued or were to be continued in the service. Thus Petitioner would be entitled to maternity leave and all benefits flowing out of such leave from 14 November 2019 till 8 June 2020 towards compliance with the order dated 31 August 2021 passed by the

learned Inspector. In respect of grievance relating to discontinuation from 7 June 2020 is concerned, Petitioner will have to file complaint before Labour Court as per the liberty granted by the Industrial Court.

4) I accordingly proceed to pass the following order:

i) Respondents-University shall pay to the Petitioner all the benefits flowing out of maternity leave under the Maternity Benefits Act, 1961 for the period from 14 November 2019 till 8 June 2020, alongwith interest at the rate of 8% per annum

ii) In respect of grievance *qua* discontinuation post 8 June 2020 is concerned, the Petitioner would be at liberty to file a complaint before the Labour Court under the MRTU and PULP Act.

iii) The Labour Court shall adjudicate such Complaint uninfluenced by any of the findings recorded by the Industrial Court as well by the learned Inspector under the Maternity Benefits Act, 1961.

(iv) So far as grievance relating to regularization forming part of Complaint (ULP) No. 280 of 2019 is concerned, Petitioner is permitted to raise the said grievance in Writ Petition No. 14337 of 2024 by getting herself impleaded therein.

5) With the above directions, Writ Petition No. 14338 of 2024 is disposed of.

[SANDEEP V. MARNE, J.]

Note : This order is corrected vide order dated 12 March 2025.