



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

Writ Petition No. 8354 of 2019

(Shri Hemant Madhukarrao Hadge .vs. M/s Clean Care (a division of Geno Pharmaceuticals Ltd.),
 through its Director, Goa)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. Feroz I. Khan, Advocate for the petitioner
 Mr. R. N. Sen, Advocate for the respondent

CORAM : ANIL L. PANSARE, J.
DATED : 08.01.2025.

Having heard both sides, it appears that the Labour Court has committed an error of law by proceeding to decide reference on merit despite holding that the petitioner – complainant was not workman under Section 2(s) of the Industrial Disputes Act, 1947 (for short ‘the Act of 1947’).

2. The Labour Court has held that the petitioner is not workman under Section 2(s) of the Act of 1947, however, thereafter proceeded to examine the issue of termination. The Labour Court answered that termination was illegal but thought it proper to answer the reference in the negative on the ground that the petitioner was not workman.

3. In my view and as correctly argued by learned counsel for the petitioner, in such an eventuality, the Labour Court ought to have given liberty to the petitioner to file proceedings under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short ‘MRTU & PULP Act’).

4. Learned counsel for the respondent, though made an attempt to justify the order but failed to show from any provision or judgment that after answering the first issue in the negative viz. the petitioner was not workman, the Labour Court could have delve upon the aspect of termination of service.

5. In view of the above, the order impugned is quashed and set aside to the extent it decide the reference on merit. The finding of the Labour Court that the petitioner was not workman under Section 2(s) of the Act of 1947 is upheld. The petitioner is given liberty to approach Labour Court under the provisions of MRTU & PULP Act.

6. The petition is disposed of in above terms with no order as to costs.

(ANIL L. PANSARE, J.)