

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10007 OF 2024

Ad Films Valas & Another ... Petitioners
V/s.
Sharad Mirashi ... Respondent

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GANESH
KULKARNI

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Mr. Suresh Pakale, Senior Advocate with Mr. Nilesh Desai and Mr. Zahid Butt i/by LJ Law for the petitioners.

Ms. Samiksha Kanani with Ms. Gayatri Naik for the respondent.

CORAM : AMIT BORKAR, J.

DATED : MARCH 26, 2026

P.C.:

1. By the present writ petition instituted under Articles 226 and 227 of the Constitution of India, the petitioners call in question the legality, propriety and correctness of the order dated 11 February 2023 passed by the Labour Court, Mumbai in Complaint (ULP) No. 235 of 2012, as well as the order dated 21 June 2023 passed by the Industrial Court, Mumbai in Revision Application (ULP) No. 51 of 2022.

2. The factual matrix giving rise to the present writ petition, as set out by the petitioners, may briefly be stated thus. The respondent instituted a complaint in the capacity of an employee of petitioner No. 1 company. Petitioner No. 1 is engaged in the business of production of documentary films and telefilms, and

also undertakes production of feature films and advertisement films. The said establishment is registered under the Shops and Establishments Act, 1948. The petitioners are stated to be proprietors of petitioner No. 1, and petitioner No. 2 is entrusted with the overall management, administration and personnel affairs of the said establishment. The respondent preferred a complaint invoking Item Nos. 1(a), 1(b), 1(d) and 1(f) of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. It is the case of the respondent that he joined the services of petitioner No. 1 in May 1980 as a peon and was subsequently promoted to the post of office assistant in the year 1993. His last drawn wages are stated to be Rs. 12,000 per month, apart from an additional amount of Rs. 5,000 per documentary film produced by the petitioners. According to the respondent, his service record was unblemished. It is further alleged that he remained on leave from 18 June 2012 and resumed duties on 10 July 2012, and worked till 13 July 2012. He thereafter raised a demand for unpaid wages pertaining to the months of June and July 2012. It is his case that due to serious illness of his wife, who was undergoing treatment for kidney-related ailments, he was unable to attend work. The respondent asserts that petitioner No. 2 insisted that the treatment be taken at Kokilaben Hospital, Andheri, which was financially beyond his means. This led to a dispute and exchange of words between the respondent and petitioner No. 2. It is alleged that, in consequence thereof, the services of the respondent came to be orally terminated with effect from 23 August 2012, without issuance of

any notice or compliance with due procedure.

3. In the aforesaid backdrop, the respondent contends that the termination of his services is illegal and unsustainable in law, and therefore liable to be quashed and set aside. It is specifically alleged that the petitioners failed to comply with the mandatory provisions of Section 25F of the Industrial Disputes Act, 1947. On this ground also, it is contended that the oral termination is vitiated, and the respondent is entitled to reinstatement in service with full back wages.

4. During the pendency of the complaint before the Labour Court, the respondent moved an application for interim relief below Exhibit U-2 on 11 February 2013. Upon hearing the parties, the Labour Court, by order of the same date, allowed the said application and directed the petitioners to permit the respondent to report for duty on 18 February 2013 at about 10:30 a.m., under intimation to the Court, and to pay wages in accordance with his attendance from time to time, pending final disposal of the complaint. Thereafter, the petitioners preferred applications below Exhibit C-3 and C-5 seeking setting aside of the ex parte interim order and the order passed without written statement below Exhibit U-2. The petitioners also filed an application below Exhibit C-15 on 15 April 2021 for setting aside the order dated 11 February 2013 passed below Exhibit U-2. In addition, an application below Exhibit C-16 was filed seeking review of the said order. The Labour Court, by order dated 20 July 2022, rejected the application filed below Exhibit C-16.

5. Mr. Pakale, learned Senior Advocate appearing on behalf of the petitioners, submits that the Labour Court failed to pass orders on applications below Exhibit C-3, C-5 and C-6, and that the order passed below Exhibit C-16 is contrary to law. It is contended that the order dated 11 February 2013, directing reinstatement at the interim stage without recording a finding of unfair labour practice, is a nullity and can be challenged at any stage. It is further submitted that the orders dated 20 July 2022 and 11 February 2023 are void ab initio and liable to be set aside. Inviting attention to the roznama of the Labour Court, it is urged that although applications below Exhibit C-3 and C-6 were filed on 29 May 2013 and 26 July 2013 respectively, no orders were passed thereon. It is submitted that, in such circumstances, the petitioners were constrained to file application below Exhibit C-15 seeking similar relief, followed by application below Exhibit C-16 for review of the ex parte order. It is also contended that no period of limitation is prescribed for filing a review application under Section 30(2) of the MRTU and PULP Act, and therefore such application can be preferred at any point of time.

6. Per contra, Ms. Kanani learned Advocate appearing for the respondent supports the impugned orders and submits that the Labour Court, in its order dated 11 February 2013, has recorded findings indicating existence of unfair labour practice. It is pointed out that the Labour Court observed that no show cause notice was issued and no enquiry was conducted prior to termination of the respondent's services, and that the mandatory provisions of the Industrial Disputes Act, 1947 were not complied with. It is further

submitted that the oral and documentary evidence adduced by the respondent remained unchallenged due to refusal of notices by respondent No. 2 on behalf of both petitioners. In such circumstances, the Labour Court was justified in accepting the material placed on record and in holding that a prima facie case was made out and that the balance of convenience was in favour of the respondent. It is further submitted that denial of work and wages would adversely affect the respondent and his ailing wife, thereby justifying grant of interim relief. It is contended that the petitioners failed to pursue their applications before the Labour Court and remained absent on several occasions, resulting in delay. The matter was repeatedly adjourned for taking steps. In this background, it is submitted that the delay in filing the revision application is not satisfactorily explained. It is also pointed out that the respondent has already filed his affidavit of evidence below Exhibit U-10 and the matter is presently posted for recording evidence. On these grounds, it is urged that the writ petition is devoid of merit and deserves to be dismissed.

7. I have considered the rival submissions made by the learned counsel for the parties and also gone through the record placed before this Court. The main question is whether these orders suffer from such legal error, perversity, or want of jurisdiction so as to require interference under Articles 226 and 227 of the Constitution of India.

8. The contention that the order is a nullity and can therefore be challenged at any time also cannot help the petitioners on the facts of this case. I am not in a position to accept this submission in

the manner it is placed. The argument proceeds on an assumption that the Labour Court has granted relief without any reasoning or without considering the legal requirements. However, when the order itself is carefully read, it shows that the Labour Court has, in fact, applied its mind to the material placed before it, though at a prima facie level. The Labour Court has specifically recorded that no show cause notice was issued to the complainant before termination. It has also noted that no domestic enquiry was conducted. These two aspects go to the root of fairness in employer action. When an employee is removed from service, law requires that certain minimum safeguards must be followed. Absence of notice and enquiry gives rise to a doubt about the legality of such termination. The Labour Court has further observed that the mandatory provisions of the Industrial Disputes Act, 1947 were not followed. This finding is again based on the material placed before it. At the interim stage, the Court is not expected to conduct a full trial. Still, if the available documents show non-compliance of basic legal requirements, the Court is justified in drawing a prima facie conclusion.

9. It is also important to note that the Labour Court has considered the evidence placed by the complainant at Exhibits U-3 and U-4. The Court has recorded that this material remained unchallenged because notices issued to the petitioners were refused. When a party avoids service or does not come forward to contest the material placed against it, the Court is left with little option but to consider the available evidence as it stands. In such a situation, the Court cannot be expected to reject that material

without any reason.

10. On the basis of these factors, the Labour Court has clearly recorded that a prima facie case is made out. It has also considered the balance of convenience. The Court has taken into account the condition of the complainant, including the illness of his wife, and the effect which denial of wages and work would have on his family. These are relevant considerations while deciding interim relief. The purpose of such relief is to prevent immediate hardship and not to finally decide the dispute. Therefore, it cannot be said that the Labour Court has granted relief without recording any finding at all. The findings may not be final findings after full trial, but they are sufficient prima facie findings based on record. That is all that is required at the interim stage.

11. The submission that absence of a final finding makes the order a nullity is therefore misplaced. It has exercised that jurisdiction after considering the available material. At the highest, the petitioners may argue that the order is erroneous. But an erroneous order is not the same as a void order.

12. Once it is held that the order is not a nullity, the further argument that it can be challenged at any point of time also does not survive. The order dated 11 February 2013 is an interim order passed within jurisdiction and supported by reasons, though brief. It cannot be treated as non est. Hence, the contention raised on behalf of the petitioners is required to be rejected.

13. The petitioners have also argued that their applications were not decided and therefore their grievance remains alive. This

submission, when seen with the roznama and the long passage of time, does not carry the matter any further. The record shows that the petitioners did not act with due promptness. The respondent had already obtained interim relief in the year 2013. The petitioners thereafter moved the court from time to time. Yet the record also shows prolonged inaction and repeated adjournments. In such a situation, a party cannot keep the matter pending for years and then urge that the court should now interfere because a particular application was not decided in the manner desired by that party.

14. The respondent has rightly pointed out that the petitioners themselves remained absent on several dates and the matter was repeatedly adjourned for steps. A person who does not pursue his own applications with due diligence cannot later build a case of grave prejudice. The law does not assist a litigant who sleeps over his rights. The Labour Court cannot be blamed if the proceedings moved slowly because of such conduct. The Industrial Court also noticed this aspect and found no reason to interfere. I find no material to say that these findings are perverse.

15. The other important aspect is delay. The revision application itself was delayed, and the explanation offered for that delay was found to be unsatisfactory. When a party approaches the court after a long lapse of time, especially against an interim order that had operated for years, the party must show a convincing and reasonable explanation. Here, the petitioners have failed to do so. The Industrial Court, therefore, was justified in taking the view that the revision was not maintainable on such belated challenge.

16. Much emphasis was laid by the petitioners on the absence of limitation for review under Section 30(2) of the MRTU and PULP Act. Even assuming that no specific period of limitation is prescribed, that does not mean that a party can come at any time without showing diligence, reason, or fairness. Every procedural power has to be used within a reasonable time and in a proper manner. The mere absence of a fixed limitation does not wash away laches, delay, or negligent conduct. The petitioners cannot take shelter under that submission to revive a stale challenge after the order has already worked for a long period.

17. The learned Advocate for the respondent has also rightly pointed out that the Labour Court had before it material showing absence of notice and enquiry, and violation of the mandatory procedure before termination. In labour matters, when the workman shows that he was taken out of service without due process, the court is not expected to remain silent till the final disposal if the facts disclose a clear prima facie case. The object of interim relief is to prevent further prejudice. If the employee is kept out of work without wages for a long period, the injury becomes serious and may not be fully cured later. That was one reason why the Labour Court directed him to be taken back on duty and paid wages according to attendance.

18. The petitioners tried to submit that the respondent was not entitled to such relief and that the court should have first returned a finding. That submission overlooks the nature of the proceeding. At the interim stage, the court is not required to finally decide the complaint. It has to see whether the complainant has shown

enough material to justify temporary protection. The Labour Court did so. It noted the absence of show cause notice, absence of enquiry, and refusal of notices. The order, therefore, cannot be called arbitrary.

19. I also find substance in the submission of the respondent that the matter has still not reached final conclusion and his affidavit of evidence has already been filed. This shows that the complaint is still pending on merits. The interim arrangement has continued in the meanwhile. In such circumstances, there is no good reason for this Court to unsettle concurrent orders of the Labour Court and the Industrial Court on a challenge that is grossly delayed.

20. The scope of interference under Articles 226 and 227 is narrow. This Court does not sit as a court of appeal over every order passed by the Labour Court or the Industrial Court. Unless there is patent lack of jurisdiction, gross illegality, or perversity leading to grave injustice, interference is not called for. On the facts of the present case, I do not find such a ground. The orders under challenge are supported by reasons. They record the relevant circumstances. They do not show any perversity or material irregularity.

21. For these reasons, I am of the view that the petitioners have failed to make out any case for interference. The Industrial Court rightly rejected the revision. The grievance about non disposal of certain applications does not, in the facts of this case, vitiate the impugned orders. The challenge is mainly an attempt to reopen a matter which the petitioners did not pursue with due diligence and

which the respondent has been contesting for a long time.

22. The writ petition is, therefore, dismissed. There shall be no order as to costs.

(AMIT BORKAR, J.)