

(1996) 09 BOM CK 0066

In the Bombay High Court

Case No : Writ Petition No. 3837 of 1996

Chief Executive Officer, Zilla Parishad, Beed

APPELLANT

Vs

Ulhas Damodhar Thigler

RESPONDENT

Date of Decision : 10-09-1996

Acts Referred:

Industrial Disputes Act, 1947 — Section 30(2)

Citation : (1997) 2 LLJ 1130

Hon'ble Judges : A.D. Mane, J

Bench : Single Bench

Advocate : C.V. Thombre, for the Appellant; S.D. Hivrekar, for the Respondent

Judgement

1. On the request of the learned counsel for the parties, Rule is made returnable forth with.

2. This writ petition is filed by the respondent in complaint ULP No. 8\\93 pending in the Labour Court, Aurangabad. Pending the complaint the Respondent filed application, Exh. U2 for interim relief of reinstatement but that application was rejected by the Labour Court against which the respondent filed Revision No. 35 of 1994 in the Industrial Court. The Industrial Court set aside the order passed by the U. hour Court & granted the application directing the petitioner respondent to reinstate the respondent retrain in service during the pendency; and disposal of the complaint.

3. That order dt. July 5, 1995 passed by the Industrial Court is questioned in this writ petition.

4. It is well settled that under Sec. 30(2) of the Industrial Disputes Act, 1947, interim orders cannot be granted in the absence of strong prima facie case in favour of the complainant. It, therefore, necessarily follows that it is incumbent on the Court first to see the existence of strong prima facie case in favour of the complainant by raising relevant issues to be tried in the complaint. In the absence of strong prima facie case interim order would be vitiated in law. The

respondent has challenged the termination of his services solely on the ground that he has served with the petitioner more than 240 days and as such he has become permanent employee. It is no doubt true that according to the petitioner, the respondent was appointed on temporary basis for a period of six months with certain breaks but his appointment was purely temporary and that too on daily wages w.e.f. August 1, 1989. The completion of 240 days will not be the only criteria to consider permanency in employment. The Industrial Court, therefore, appears to have committed error in granting interim order in the form of final relief in the complaint without determining the main issue involved in the complaint.

5. In the result, the writ petition is allowed. The impugned order is quashed and set aside.

6. Mr. Hivrekar, learned counsel for the respondent submits. that the complaint may be ordered to be expedited and disposed of within three months. Mr. Thombre has no objection. The Labour Court is directed to dispose of the complaint ULP No. 8/93 within a period of three months from the date of receipt of this order. Rule is made absolute accordingly. No order as to costs.