
(2000) 11 BOM CK 0005

In the Bombay High Court

Case No : Writ Petition No. 3281 of 2000

Executive Engineer, M.S.E.B. and Another

APPELLANT

Vs

Industrial Court and Another

RESPONDENT

Date of Decision : 21-11-2000

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 — Section 30(2)

Citation : (2001) 3 ALLMR 566 : (2002) 4 LLJ 292 : (2001) 3 MhLj 320

Hon'ble Judges : D.D. Sinha, J

Bench : Single Bench

Judgement

D.D. Sinha, J.—Rule returnable forthwith. Heard finally by consent of Shri Deshpande, learned counsel for the petitioners, Shri Kankale, learned Assistant Government Pleader for respondent No. 1, and Shri Ghare, learned counsel for respondent No. 2.

2. The petition is directed against the order dated January 24, 2000 passed by the Industrial Court and order dated June 12, 1998 passed by the Labour Court. Shri Deshpande, learned counsel for the petitioners, contended that respondent No. 1 filed Complaint (ULP) No. 139/1997 before the Labour Court challenging termination of his service and moved an application u/s 30(2) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act for grant of interim relief. The learned counsel contended that the Labour Court at the interlocutory stage without adjudicating the matter on merits, recorded a final finding that respondent No. 2/complainant had worked for more than 240 days in a year before termination of his service and petitioners without following the provisions of Section 25-F of the Industrial Disputes Act terminated service of the complainant. It is contended that by virtue of the interim order, Labour Court has declared final result of the complaint, which is not permissible at this stage. The learned counsel further contended that the petitioners have specifically denied by filing written statement that the respondent No. 2/complainant worked

for 240 days continuously in the preceding twelve months. It is further submitted that respondent No. 2 was appointed on daily wages and as a stop-gap arrangement since regular employee, i. e. watchman was on leave. It is contended that without giving opportunity to adduce evidence, the Labour Court passed the order of reinstatement and therefore, same is not proper. It is further contended that order of revisional Court is also bad in law for the same reason.

3. Shri Ghare, learned counsel for the respondent No. 2/complainant, contended that Labour Court was justified in directing reinstatement of complainant during pendency of the complaint u/s 30(2) of the Act. It is submitted that documents produced by the respondent No. 2/complainant along with complaint clearly demonstrate that he worked for more than 240 days in one year and, therefore, petitioners were required to follow the procedure contemplated u/s 25-F of the Industrial Disputes Act. Violation thereof necessarily renders termination of service of respondent No. 2/complainant prima facie bad in law and hence, Labour Court as well as revisional Court were justified in passing the impugned orders.

4. I have considered the contentions raised by the learned counsel for the parties. It is no doubt true that power is vested in the Labour Court u/s 30(2) of the Act to grant interim relief. However, care needs to be taken by the Court that interim relief should not be such, which would amount to grant of final relief at the interlocutory stage without proper adjudication of matter on merits unless there are exceptional circumstances, which render the order impugned before such Court prima facie unsustainable, in view of inherent legal infirmities.

5. However, in the instant case, I see no such exceptional circumstances for the Labour Court to direct reinstatement, which undoubtedly is the final relief, which respondent No. 2 employee may or may not get after due adjudication on merits. Similarly, Industrial Court also has not given anxious thought to the issue in question in the manner in which it needs to be given and confirmed the interim order passed by the Labour Court. Hence, for the similar reason, the order passed by the Industrial Court also cannot be sustained. It is true that the respondent No. 2 employee is out of employment for number of years and, therefore, complaint of the respondent No. 2 needs to be disposed of on merits finally by the Labour Court within a stipulated period.

6. For the reasons stated hereinabove, the impugned order dated June 1, 1998 passed by the Labour Court and impugned order dated January 24, 2000 passed by the Industrial Court are hereby quashed and set aside. The Labour Court is directed to dispose of Complaint (ULP) No. 139/1997 of the respondent No. 2/complainant within a period of three months from the date of receipt of this judgment after giving appropriate opportunity to the parties to the complaint.

7. The rule is made absolute in the above terms. No order as to costs.