
(1999) 07 BOM CK 0072
In the Bombay High Court
Case No : O.O.C.J. W.P. No. 1536 of 1999

Press Trust of India Ltd. and Another	Vs	APPELLANT
Parag B. Rabade and Others		RESPONDENT

Date of Decision : 15-07-1999

Acts Referred:

Citation : (2000) 1 LLJ 492

Hon'ble Judges : A.P. Shah, J

Bench : Single Bench

Advocate : J.P. Cama, instructed by K.P. Anilkumar, for the Appellant; Hutoxi Tavadia, for the Respondent

Final Decision : Allowed

Judgement

A. P. Shah, J.—This petition under Article 226 of the Constitution of India challenges an interlocutory order dated June 9, 1999 made by the Industrial Court, Mumbai in Complaint (ULP) No. 128 of 1999, a proceeding under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 hereinafter referred to as "the Act".

2. The petitioner No. 1 is a news agency engaged in the business of collection and dissemination of news to various newspaper establishments, electronic media and Government and private agencies. The 1st respondent joined the employment of the petitioner with effect from August 1, 1989 at Pune as a trainee journalist. He was thereafter confirmed as a journalist in Group III from September 1, 1990. He was transferred from Pune to Mumbai on promotion from Group III to Group II-A with effect from January 1, 1996. Initially the respondent No. 1 was assigned to editorial desk to discharge the duties of a senior sub-editor. On April 8, 1996 the petitioner assigned to the respondent No. 1 duties of a senior reporter in the self same group. On January 28, 1999 the petitioner directed the respondent No. 1 to work at the editorial desk as a senior sub-editor as the work of the respondent No. 1 in the field of reporting was not to the level expected from him. The respondent No. 1 moved the Industrial Court by his

Complaint (ULP) No. 128 of 1999 u/s 28 read with item Nos. 5 and 9 of Schedule IV of the said Act challenging his transfer to the reporting desk. Alongwith the said complaint the respondent No. 1 moved an application Exh. U-2 for interim reliefs which came to be allowed by the Industrial Court by the impugned order dated June 9, 1999.

3. A perusal of the order of the Industrial Court shows that the respondent No. 1 challenged his transfer from the reporting section to editorial section mainly on three counts. First, he contended that in terms of duties explicitly defined under the Palekar and Bachawat Awards, the functions of reporters and of those journalists on the desk are not interchangeable. Secondly such reallocation of duties to him constitutes a punitive action and he should have been given an opportunity of being heard. Thirdly the assignment of duties to desk is opposed to Section 9-A of the Industrial Disputes Act, 1947 as the same would deprive him of his contacts cultivated over a number of years as a senior reporter and also reimbursement of conveyance expenses upto Rs. 1685/- per month. The Industrial Court has prime facie accepted the above submission of the complainant and granted interim reliefs.

4. Both the learned Counsel Mr. Cama and Ms. Tavadia have relied upon Palekar and Bachawat Awards, which are mainly concerned with the revision of wages of the journalists and non-journalist categories. Under the Palekar Award the journalists have been grouped into six groups and group II-A, with which we are concerned in the present case includes: senior sub-editor and senior reporter. Under the Bachawat Award group II-A includes senior sub-editor, senior librarian, senior reporter, senior photographer, Assistant producer-cum-reporter (TV). A senior reporter under the Bachawat Award has been defined as a person whose regular duties include reporting of State Government news or proceedings of State Legislature, whereas the sub-editor is a person who receives, selects, shortens, summarises, elaborates, translates, edits and headlines news item of all descriptions and he may do some or all the functions. There is nothing in the Bachawat Award to show that the services of the reported and sub- editor are not interchangeable. The petitioner has cited a number of instances where reporters in various groups had been relocated to the editor desk or vice versa. At least prima facie I feel that a reporter cannot claim any immunity from being assigned to the editorial desk in the same group or vice versa as by the nature of their duties, reporting and editing are two inseparable or indivisible phases of journalism. It is difficult to see how a person working as a journalist can claim statutory right to work in only one section of the department when his job is inherently interchangeable by the very nature of employment. In the light of the Bachawat Award it is clear that the journalists' duties consist of reporting as well as desk work. Whether one is doing reporting or desk work he/she is treated on par along with others in the same group.

5. Ms. Tavadia, however, submits that there is no category described in the Bachawat Award as journalist category. Merely because the appointment letter

shows that the respondent No. 1 was appointed as journalist, does not mean that he could be transferred from the job of reporter to the job of editor at the sweet will of the management. She contends that both the jobs are separate and distinct and the duties of the two are separately defined under Bachawat Award. Therefore according to Ms. Tavadia order of shifting first respondent to the editing desk amounts to punitive action. She strenuously urged that this action, amounts to casting of a stigma on the service career of the respondent No. 1 and as such a proper prior hearing was essential before taking such a punitive action i.e., transferring the respondent No. 1 from the job of reporting to the job of editing desk.

6. There is no merit in the submissions of learned counsel. Having regard to the nature of the work of a news agency, it would be open for the management to change the assignment of the concerned journalists to ensure flexibility and mobility in the administration of the agency. It is undoubtedly true that the reporting job is considered to be more attractive than the editorial job but being on the desk does not mean that one does not venture out on reporting. Whenever reporting staff is short of hands desk men are sent on assignments. The petitioner has given several such instances. Ms. Tavadia has sought to rely upon an article written by Shri Mahesh Prasad in support of her case that the reporting and editing have always been considered as separate jobs and there is no interchangeability between the two. I am afraid that the article totally belies the submission of the learned counsel. The learned author has observed in the said article as under:

" Similarly being on the desk did not mean that one did not venture out on reporting. Whenever the reporting side was short of hands, deskmen were sent on assignments. Deskmen were also sent occasionally on conducted tours. Although deskmen always vied to shift to the reporting side - some lucky ones did get a change - the desk job was not considered inferior. There were people, who spent virtually their entire career on the desk. A senior colleague P.S. Kasbekar, who was on the desk, virtually during the whole of his career, is an example. He retired as editor, who in those days used to be next only to the General Manager. Nevertheless, the desk job has been known to be frustrating. This is what it should not be. In fact the cream of journalists and the most senior and efficient among them should be on the desk as the job needs wide experience, sensitivity about the laws of the country, particularly about defamation, contempt of Court and parliamentary privileges as these could land the organisation in unnecessary litigation, which an agency could ill afford. Seniority and experience thus should be the consideration, while manning the desk. The deskmen should also see that the copy was fair to both sides of a story and should seek from the reporter the other side in case it is missing in the copy, especially in cases where a charge is made against a party. In this context, even though those concerned may not like it, the present practice of bringing back correspondents from foreign postings to senior positions on the desk is only proper. This happens in all major agencies. In fact, in an agency, the desk and

the reporting job should be interchangeable."

7. The Industrial Court seems to have proceeded on the footing that two jobs are strictly not interchangeable. This he has deduced from the fact that under the Bachawat Award separate duties have been specified for the post of senior reporter, senior librarian and sub-editor. At least prime facie it is difficult to agree with the findings recorded by the Industrial Court in this behalf. It is also not possible to agree with the view taken by the learned Judge that Section 9-A of the Industrial Disputes Act could be attracted in the present case. It is an admitted position that even after the reallocation of the desk work respondent No. 1 continues to work in the same group i.e., Group II-A. Allocation of work is within the realm of the management and it is not possible to hold at least at this prime facie stage that such allocation or reallocation of work amounts to change of service conditions. In my view the Industrial Court has committed a serious error in granting interim relief. Ordinarily this Court would not have interfered with an interlocutory order of the Industrial Court but such an order affects the smooth functioning of the agency. In my opinion various issues raised in the petition can be decided only after a full fledged hearing. At the interlocutory stage the Industrial Court should not have restrained the company from effecting the order of reallocation of work of the respondent No. 1.

8. In the result petition succeeds. The impugned order of the Industrial Court is quashed and set aside. Industrial Court is directed to decide the complaint as expeditiously as possible and in any event within three months from the date of this order. It is made clear that the observations in this order are only prima facie and tentative observations and the Industrial Court shall decide the matter on its own merits without in any way being influenced by the same.

On the request made by the learned counsel for the respondent No. 1 operation of this order is stayed till August 3, 1999.