
(2000) 08 BOM CK 0089

In the Bombay High Court

Case No : Appellate Side W.P. No. 1080 of 1999

Rajson Pen and Plastic Industries

APPELLANT

Vs

Sarita Sonaba Gurav and Another

RESPONDENT

Date of Decision : 08-08-2000

Acts Referred:

Citation : (2001) 3 LLJ 831

Hon'ble Judges : T.K. Chandrashekhara Das, J

Bench : Single Bench

Judgement

T.K. Chandrashekhara Das, J.—This Writ Petition is for challenging the impugned order in the complaint (ULP) 1249/91 dated January 12, 1999 passed by the Member, Industrial Court, Bombay wherein it was found that the Petitioner was engaged in unfair labour practices under Item Nos. 9 and 10 of Schedule IV of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 on or about September 7, 1991. It is also directed by the impugned order to reinstate the respondent within one month from that day with continuity of services and back wages with effect from September 7, 1991.

2. The matter arises on a complaint made by the respondent before the Industrial Court alleging that the Petitioner Ashok R. Ahuja is the manager and proprietor of Rajson Pen & Plastic Industries, has indulged in unfair labour practices by forcing complainant's resignation from the establishment of the Petitioner. She alleges that she is a permanent worker drawing a salary of Rs. 1262.25/- per month i.e. Rs. 46.75 per day. It is admitted that there was no written contract of employment.

3. Respondent worker complained before the Industrial Court that on September 7, 1991 one Smt. Mani suddenly alleged that respondent has committed serious mistake in her work, amounting to misconduct, due to which it affected the finished products. The complainant immediately checked everything and found that she had committed no wrong. Then again the supervisor angrily complained about her that she is not admitting her mistake. Ultimately Smt. Mani made a

complaint against the Respondent to the Petitioner. Smt. Mani was in good terms with the Petitioner. It is the complaint of the Respondent that a trap has laid by the Petitioner and Smt. Mani to victimize her. Her further complaint is that the Petitioner has prepared a voucher for Rs. 4628/- dated September 7, 1991 as the terminal benefit and kept ready to obtain her signature by force on that voucher and as well as on her resignation letter, terminating the services of the complainant by paying the amount. With these allegation the Respondent approached the Industrial Court.

4. The Petitioner resisted the allegation and both the parties went for trial. On perusal of the records and hearing the counsel for the Petitioner, I find that no case is made out to attract Item 9 of Schedule IV of the MRTU & PULP Act. However, at the same time, in the so called resignation letter it is stated as thus:

"I the undersigned hereby inform you that I am giving the resignation of my work without any force, kindly accept it and make full and final settlement of my account."

Below that the endorsement of the employee is thus:

Resignation accepted with immediate effect."

5. An attempt was made before the Court below by the Respondent that Mr. Khade the union leader, was compelling her to write her resignation letter. But on going through the evidence I find that that has not been proved. But still a doubt lingering in my mind about the word used in the resignation letter "without any force". If a worker voluntarily resigns, he need not have put that word in the normal circumstances. But with that statement alone a court is not in a position to conclude that resignation letter was extracted by using force. But it has come out in the evidence of the Respondent, that next day of the resignation, he made a complaint before Kandivli Police Station. If that is true, it may be a telling circumstances to support the case of the Respondent that force has been used. It is quite natural that when a resignation letter, is extracted by using force, worker might have gone immediately to the police station to complaint about that. That circumstances is a relevant circumstances which the Respondent may be able to prove that the force was employed at the time of writing the resignation letter. Unfortunately this aspect has not been highlighted by the Industrial Court nor do they take any steps to call for the record from the police station or to examine any police officer in that behalf. I find this is a serious lacuna in this case. Industrial Court is established by the MRTU & PULP Act 1971 and it is a welfare legislation to protect in the interest of the labourers and the employers. It is the duty of the Industrial Court in the interest of justice to suo moto call for the records from the police station and verify the allegation made by the worker. Anyway the Industrial Court did not attempt to do it. I find that this is a strong situation which the Respondent may be able to prove that the resignation letter has been extracted by using force. Therefore I feel it is only appropriate to remand the matter back to the Industrial Court to enter a finding whether the

letter of resignation is extracted by force by the Petitioner and thereby commit an offence of violating Item No. 10 of Schedule IV of the MRTU & PULP Act, 1971.

6. I make it clear that the claim by the Respondent that there is violation of Item No. 9 of Schedule IV is not sustainable and need not be reopened as it has been finally concluded. In view of this I set aside the order passed by the Industrial Court and remand the matter back for the purpose of conducting further enquiry into the matter to enter a finding that there was violation of Item 10 of Schedule IV of the Act.

7. The Industrial Court should enter such a finding and pass final order within six months from the date of receipt of this order.

8. It is clarified that the Industrial Court should pass the order untrammelled by any remarks made by me in this case.

9. The Writ Petition is therefore disposed of accordingly. Rule discharged. No order as to costs.