

EXHIBIT NO. O-

Received on : 15.01.2018

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Delivered on : 30.09.2019

Duration : 01Y; 08M; 16D

BEFORE THE MEMBER, INDUSTRIAL COURT, SOLAPUR
(PRESIDED OVER BY SHRI. N. A. MALUNJKAR)

Revision Application(ULP)No. 1 of 2018

Vijay Nursing Home,

Through Prop. Dr. G. J. Kasliwal,
196, Budhwar Peth, Solapur.

Revision
... **Petitioner**

V E R S U S

Ramesh Nivrutti Vhatkar,
Age – 46 yrs., Occu. Social Work,
R/o. 53B, Mantri Chandak Nagar,
Rupa Bhavani Road, Bhavani Peth,
Solapur.

... **Opponent.**

APPEARANCES :

Advocate Shri. S. S. Bendre for Petitioner.

Advocate Shri. R. G. Mhetras for Respondent.

-: J U D G M E N T :-

(Dictated & Delivered on 30th September 2019)

This revision is filed under Section 44 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair

Labour Practices Act, 1971 (for brevity, 'the Act') challenging the order of Ld. Labour Court in Crim.(ULP)No.26/2010 and the order of issue process dtd. 13.12.2017.

2. **The facts of the case in short are ;**

That the Petitioner is a Nursing Home in Solapur, Petitioner through Dr. Kooliwal is the original accused in Crim.(ULP)No.26/2010 whilst the Opponent in the present petition is the Complainant. The Opponent was working as a Compounder/Male Nurse with the Petitioner. On 10.07.2001, the Petitioner dismissed services of the Opponent on grounds of misconduct. Comp.(ULP)No.83/2001 was filed by the Opponent workman wherein the Labour Court granted the order of reinstatement with continuity of service and without back wages. The Petitioner challenged the said order in Revision Appl.(ULP)No.43/2010. After hearing both the parties, the Industrial Court, Solapur i.e. my predecessor rejected the said revision petition and there is no documents of the petitioner going in Writ Petition against the said judgment. The Oppo-

ment then requested the Petitioner for complying with the order of the Ld. Labour Court in Comp.(ULP)No.83/2001. But having failed to do so, Crim.(ULP)No. 26/2010 was filed before the Ld. Labour Court and Labour Court issued notice to the Petitioner and after about 7 to 8 years, the order of issue process was passed against the Revision Petitioner. This order is not challenged before this Revision Court.

3. The Petitioner has challenged this order on the following grounds; that Trial Court has not taken into consideration the resignation letter of the Opponent workman; that the Trial Court has overlooked the arguments and submissions of the parties as well as the judgment passed by the Industrial Court in Revision(ULP)No.43/2010; that the Trial Court has failed to appreciate the evidence before it and that the Trial Court has passed an order without jurisdiction against the principles of natural justice.

4. The Opponent workman appeared before me and objected to the said revision. The Opponent has argued that

the Labour Court has passed an appropriate order in accordance with the law and has prayed that the same may not be interfered with. I have perused the R.&P. Of Trial Court. Heard arguments of both the parties which were exhaustive and vehement and the only issue before me is **“Whether u/s. 44, I am to interfere in the orders passed by the Ld. Labour Court in Crim.(ULP)No. 26/2010”?** My answer is in the Negative.

: REASONS :

5. Upon perusal of the documents and hearing arguments of Petitioner, one most important fact is come to my notice. It can be seen from the Roznama that after issuance of notice, by the Ld. Labour Court on 21.10.2010, the Petitioner has remained absent from the Court and advocate who represented the Petitioner has remained present before the Trial Court from 08.01.2010 till the time this revision application is filed i.e. 01.03.2018. Till date the Revision Petitioner has failed to remain present before the Ld. Labour Court. It can also seen from the documents that matter has been pend-

ing for the stage of issue process since 2015 and remarkable delay has been caused in the said matter.

6. The submission of the Petitioner was that the Opponent workman has issued a resignation letter of his services and has also accepted legal dues of gratuity etc. and therefore, there is nothing to be complied with. The Petitioner has followed the orders of the Ld. Labour Court in Comp. (ULP)No. 43/2001 and therefore, there is no contempt of the orders of the Ld. Labour Court. The Petitioner has also filed several documents in Crim.(ULP)No.26/2010 showing resignation letter and his acceptance of legal dues and it was contention of the Petitioner that Trial Court has failed to take consideration of the same and has still issued an order of process against the Petitioner. I discard the contentions of the Petitioner Advocate simply because it was mandatory on behalf of the accused i.e. present Revision Petitioner to remain present before the Trial Court and then after fulfilling the necessary formalities of P.R.Bond etc. all opportunities could have been extended to the accused to show why no contempt

has been done by him. I am also surprised to know that Revision Petitioner has also in fact challenged the order of issue notice passed by the Trial Court in Crim.(ULP)No. 26/2010. The contentions of the Revision Petitioner which have been argued before me, regarding the resignation etc. are futile because I have no jurisdiction to decide the contempt proceedings. At the same time, I have no jurisdiction to decide whether the resignation letter, acceptance of legal dues would show that the Revision Petitioner has not indulged in any contempt.

7. Again for the sake of repetition, it was the duty of the Revision Petitioner to remain present before the Labour Court and proper procedure. According to me, no illegal order has been passed by the Trial Court. The submissions made by the Advocate, before the Trial Court in absence of the accused would make futile the provisions of Sec. 48 of the Act. Simply avoiding to remain present before the Trial Court and trying to take an order in Revision memo is not acceptable. And therefore, again Labour Court has rightly passed an

order to issue process against the Revision Petitioner. Revision Petitioner is directed to remain present before the Trial Court on date given by the Trial Court in Crim.(ULP)No. 26/2010 and to complete the necessary formalities prescribed u/s. 48 of the Act. Therefore, in lieu of the above reasons, I pass the following order;

: ORDER :

- 1) Revision Appl.(ULP)No. 01 of 2018 is rejected.
- 2) R. & P. be sent back to the Labour Court expeditiously
- 3) No order as to costs.



Date : 30.09.2019
Place: Solapur.

(N. A. Malunjkar)
Member,
Industrial Court, Solapur.

Argued on	:	30.09.2019
Judgment dictated on	:	30.09.2019
Judgment transcribed on	:	30.09.2019
Judgment checked & signed on	:	30.09.2019