

**IN THE INDUSTRIAL COURT AT MUMBAI
BEFORE R.V. UTPAT, MEMBER**

COMPLAINT (ULP)NO. 334 of 2018
CNR No. MHIC-01-000974-2018

Mr. Anil s/o Gulabrao Kadukar ... **Complainant**

Versus

Kalpataru Power Transmission Ltd. ... **Respondent**

ORDER BELOW EXH. C-29

(Dated 15/02/2025)

1. By this application, the respondent company has prayed for recalling the complainant for further cross-examination on the grounds that, the complainant was posted at Algeria and the documents pertaining to the employment of the complainant were at Algeria. Subsequently, the project at Algeria came to an end and thereafter some of the documents pertaining to the Algeria project were shifted to Mauritania. The respondent Company has traced some more documents pertaining to the complainant's work at Algeria and in that regard, the respondent company desires to cross-examine the complainant. Earlier, this court had directed the respondent Company to first place on record the documents in respect of which it wanted to cross-examine the complainant. Accordingly, the respondent Company has placed on record the documents with list Exh.C-32 which include some vouchers, expense summary, payments pertaining to

social security, etc.

2. The application is resisted by the complainant by filing written submissions (Exh.U-26) and reply (Exh.U-29). According to the complainant, the respondent Company is trying to protract the matter and it could have filed the documents at the time of filing application itself, but it is only when the complainant resisted the application by filing reply dated 01.07.2024, the respondent Company has filed fabricated documents on record. It is also contended by the complainant that, since the complainant has closed his evidence, he could not be recalled for further cross-examination. According to the complainant, the respondents are having ample opportunity to lead evidence and to prove the documents.

3. On perusal of the record, it becomes clear that, on 15.02.2024, cross-examination of the complainant was over and thereafter, the complainant moved evidence closing pursis. Thereafter, the matter was at the stage of the respondent's evidence. However, instead of adducing evidence, the respondent Company moved the present application. The complaint is for unfair labour practice under Item 9 of Schedule IV of the MRTU & PULP Act. There are specific pleadings in the complaint that, the complainant was posted at Algeria by the respondent Company. During his cross-examination by the respondents, he has admitted that, the respondent company had appointed him by letter dated 14.08.2013 for project in Algeria. There is no dispute that, the

complainant was appointed as Commercial Officer by the respondent Company. The documents the respondent has placed on record along with list Exh.C-32 pertain to the period 2013-14. The complaint is resisted by the respondent Company on the ground that, the nature of duties being performed by the complainant was supervisory, administrative and managerial in nature and he does not fall under the definition of 'employee', *inter alia* other grounds. The documents produced on record have a close bearing with the issues involved in this complaint and it would be in the larger interest of justice to recall the complainant for cross-examination in regard to the documents placed on record at list Exh.C-32. Hence, I proceed to pass the following order:

ORDER

1. Application is allowed.
2. The complainant is recalled for cross-examination, which shall be confined only to the documents placed on record at Exh.C-32.

(R.V. Utpat)

Member,

Industrial Court, Mumbai

Date : 15/02/2025

Ssp/-