

MHIC010013242023



**BEFORE THE PRESIDENT, INDUSTRIAL COURT, MAHARASHTRA,
MUMBAI**

COMPLAINT(ULP)NO. 239 OF 2023

**Co-operative Bank Employees Union, Mumbai
Versus
State Transport Co-operative Bank Ltd. Mumbai**

**Ad-interim Order below Exh.U-2
(Passed on 29.08.2024)**

1. Perused the application Exh.U-2 and written statement. Heard the Learned Advocate for the complainant-union. The respondents-employers and their Advocates were absent when called. The Learned Advocate for the complainant pressed to pass an ad-interim order below the application Exh.U-2 because there is an urgency of interim relief for the concerned employees and the respondents and their Advocate are remaining absent to hear the application Exh.U-2. Hence, the present ad-interim order is passed.

2. The complainant through the employees has filed the present complaint of unfair labour practices under Section 28 read with Item 5 of Schedule II and Items 3, 9, and 10 of Schedule IV of the MRTU & PULP Act against the respondents along with the application Exh.U-2 under Section 30(2) of the MRTU & PULP Act for grant of interim relief till the decision of the main complaint.

3. The complainant submitted that the employees 1) Santosh Haldankar is serving as a peon and 2) Harshada Khedekar is serving as a daftary in respondent No.1 bank. Respondent No.2 is the managing director of Respondent No.1 bank. The respondents on 10.10.2023 issued a suspension order to these employees separately that they are suspended w.e.f.10.10.2023 on the ground that they have committed the alleged act of misconduct mentioned in the suspension orders. Their suspension is without a charge sheet. Accordingly, the said suspension orders issued to them are illegal and come in terms of unfair labour practices. Therefore, the effect and operation of the suspension orders may kindly be stayed till the decision of the main complaint.

4. The Learned Advocate for the complainant submitted that the respondents on 10.10.2023 issued the suspension order to these employees separately and they are suspended from that date due to they have committed the alleged act of misconduct mentioned in the suspension orders. However, since issuing the suspension orders to them till the update the respondents neither issued a charge sheet nor started their domestic inquiry for the alleged act of misconduct. To keep suspending them for an uncertain period without a charge sheet and inquiry is an unfair labour practice. They cannot remain suspended for an uncertain period by the respondents. Therefore, it is necessary to set aside their suspension orders or to stay the effect and operation of the same till the decision of the main complaint. The respondents are not attending the Court to hear the application Exh.U-2, and so it is pending. Accordingly, there is required ad-interim relief to them till

the decision of the application Exh.U-2. Therefore, may kindly be stayed the effect and operation of the suspension orders of these employees till the decision of the application Exh.U-2 so that they will join the duties and get full salary as well as maintain the family.

5. The respondents and their Advocate were absent to hear on ad-interim relief when called and even sufficient opportunity was given. However, I perused the written statement of the respondents. They in para 2(a) submitted about the maintainability of challenge to the suspension orders. It is submitted that the respondents on 10.10.2023 issued suspension orders to their employees 1) Santosh Haldankar and 2) Harshada Khedekar separately that they are suspended w.e.f.10.10.2023 for the alleged misconduct committed by them which is mentioned in the suspension orders, they are entitled to subsistence allowances as per rules during the period of suspension and they have to sign in the muster roll at Kalyan branch and Kurla branch respectively during their suspension period. The suspension orders are self-explanatory for the misconduct committed by them. According to the standing orders of the bank clause 23 the delinquent employee has to challenge the order of suspension by an appeal before the manager of the bank. However, these employees have not challenged their suspension orders by an appeal under the standing orders of the bank as settled under the Maharashtra Industrial Relations Act, 1946, but they have chosen to challenge the suspension orders before the Court. Based on clause 23 of the standing orders of the bank this Court no need to grant sought interim relief to them till the decision of the main complaint.

6. According to the respondents, as per the standing orders of the bank, the remedy is available to these employees to challenge their alleged suspension orders by an appeal before the manager of the bank. Because the bank manager is the competent authority to redress the grievances of the employee relating to unfair treatment or wrongful exaction on the part of the bank, or superior/respondents shall either himself or through his representative under Section 30 of the Maharashtra Industrial Relations Act, 1946 submit a complaint to the manager or any officer appointed by the manager on this behalf. Accordingly, these employees should have challenged their suspension orders by an appeal before the manager of the bank. However, the said remedy is available to them but instead of availing the said remedy they seeking relief from the Court to stay the effect and operation of their suspension orders.

7. It appears that these employees without challenging their suspension orders by an appeal before the bank manager approached this Court and requested to stay the effect and operation of their suspension orders. As per the respondents, these employees can challenge their suspension orders by an appeal before the manager of the bank as per clause no.23 of the standing orders of the bank. To challenge their suspension orders remedy of appeal before the manager of the bank is available to them. That remedy is efficient and adequate. Therefore, before availing the said remedy they cannot ask the relief from the Court to stay the effect and operation of their suspension orders. They first should avail the available remedy which is provided in clause no.23 of the standing orders of the bank and after availing the said remedy if the decision

of appeal comes out against them they can ask the sought relief to this Court. Therefore, before they availed the remedy of appeal and the manager of the bank deciding their appeal and decision of appeal came out against them the Court had no need to grant sought ad-interim relief to them. Based on the submission of the respondents in para no.2(a) of the written statement I am of the view that the employees are directed to challenge their suspension orders by an appeal before the manager of the bank and request for sought reliefs, if any. They are at liberty if the decision of their appeals comes out against them then they challenge the said decision before this Court and press ad-interim relief or interim relief to stay the effect and operation of their suspension orders till the decision of the main complaint. Based on the above discussion and reasons as well as such peculiar circumstances no need to grant ad-interim relief to them at this stage. Thus, I proceed to pass the following order :

ORDER

- 1 The complainant-union/employees 1) Santosh Haldankar and 2) Harshada Khedekar are hereby directed to make representation or appeal against their suspension orders dated 10.10.2023 passed by the respondents before the bank manager for the relief to set aside their suspension orders or for any sought relief.
- 2 The bank manager is requested to decide the representation /appeal if any of these employees file by them as early as possible and within a reasonable period.

- 3 After the bank manager decides the representation/appeal of these employees the said application Exh.U-2 for interim relief filed by them will be decided.
4. These employees are granted liberty to challenge the decision of the bank manager which is given on their representation/appeal and came out the same against them before this Court and press sought ad-interim relief or interim relief to set aside their suspension orders or stay the effect and operation of their suspension orders till the decision of the main complaint.
5. If the bank manager has not decided representation/appeal of these employees as early as possible and within a reasonable period then they inform this Court so that the Court will pass further suitable order, or ad-interim relief order if any.
6. A copy of the order be sent to the respondents to place the same before the bank manager for information and necessary action.

Date :- 29.08.2024

(V. P. Patkar)
President,
Industrial Court, Mah., Mumbai

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment / order are same, word to word, as per the original judgment / order.

Name of the Stenographer : Mrs. A.S. Gawankar, Personal Assistant
Court : President, Industrial Court, Maharashtra, Mumbai.
Date : 29.08.2024
Judgment/order signed by
the Presiding Officer on : 29.08.2024
Judgment / order uploaded on : 29.08.2024