

MHIC120000502024



IN THE COURT OF MEMBER, INDUSTRIAL COURT, PUNE.

Presided Over by Shri. S. M. Bukke

Revn. Appln. (ULP) No. 09/2024

Japfa Comfeed India Pvt. Ltd.
91 Sakore Nagar, Viman Nagar,
Pune 411014

.... Revision Applicant
(Original Respondent)

VERSUS

Kashinath Jadhav
Shourya Homes Soc. Manjaba Vasti,
Opp Astria Soc. Tingare Nagar,
Lane No. 13, Pune 411015.

.... Revision Opponent
(Original Complainant)

Advocate for the revision applicant : Shri. V.S. Dhamankar
Advocate for the revision opponent : Shri. V.H. Shekdar

ORDER BELOW EXH. C-2
(Delivered on -29-08-2024)

1. This is an application on behalf of revision petitioner to stay the interim order dated 11/10/2023 below Exh. U-2 passed by the Ld. First Labour Court, Pune in Complaint ULP No. 60/2023 till the decision revision application.

2. The core of application is that,

The revision Petitioner preferred present revision against the interim order dated 11/10/2023 below Exh. U-2 passed by the Ld. Labour Court No.1, Pune on the ground that the impugned order is perverse and illegal on the face of record. The Ld. Labour Court has grossly erred in coming to the conclusion that the framing of preliminary issue and deciding it first on the point of workman is just and proper.

3. The revision petitioner further submitted that the impugned order is contrary to the established principles of granting interim relief laid down by higher judiciary. The applicant is suffering huge monetary loss in terms of payment of suspension allowance. The balance of convenience is in his favour. The Ld. Labour Court has passed blanket order of Stay to dismissal is being put to grave and irreparable loss in terms of money. Therefore, the revision petitioner craved to stay the order dated 11/10/2023 till the decision of revision application.

4. Heard the Ld. Counsel of respondent. He vehemently submitted that there is huge delay to prefer present revision application. No irreparable loss will cause to the revision petitioner, no balance of convenience lies in his favour. On the contrary, if stay is granted, the respondent will suffer irreparable loss. He further submitted that the order passed by the Ld. Labour Court No.1,Pune is legal and proper. Lastly, he craved to reject the application Exh. C-2.

5. The complainant Kashinath Anant Jadhav (respondent in

present revision petition) has filed interim relief application in Complaint (ULP) No. 60 of 2023 under Section 30(2) of the MRTU and PULP Act, 1971. The Ld. Labour Court decided the interim application Exh. U-2 on 11/10/2023 and fixed the matter to decide the preliminary issue of workman.

6. Being aggrieved and dissatisfied with the impugned order, the revision petitioner preferred revision petition 09/2024 and below Exh. C-2 craved to stay the order dated 11/10/2023.

7. While deciding the stay application this Court has to see whether the revision petitioner has satisfied the necessary conditions for grant of stay. The first and foremost condition is the application for stay of the order has been made without unreasonable delay.

8. Perusal of record, it appears that the Ld. Labour Court No.1, Pune has passed the order below Exh. U-2 on 11/10/2023 and present revision petition is preferred on 16/01/2024. This shows that the revision petitioner has not immediately approached this Court for stay of order below Exh.U-2. The Ld. Counsel of Revision Petitioner submitted that it caused delay to prefer the revision petition because he collected the certified copies at belated stage. Therefore, he cannot prefer present revision petition including stay application without unreasonable delay. The certified copy on record below List Exh. C-4 reveals that the revision petitioner applied for certified copy of the order on 26/10/2023 and he collected it on 24/11/2023. It means that the revision petitioner himself caused delay of 15 days to prefer application for certified copy as well as

delay of 52 days after collection of certified copies. Even after filing of present revision petition the revision petitioner press the application on 22/06/2024. This conduct of the revision petitioner itself shows that the application has not been made without unreasonable delay. There is huge delay of 67 days to prefer stay application from the date of collection of certified copies. This shows that the revision petitioner has no hardship as compared to the respondent.

9. The next condition which must be satisfied by revision petitioner before stay is granted by this Court is substantial loss which will result to the revision petitioner unless the stay order is made. The revision petitioner pleaded and argued that huge monetary loss will cause to the petitioner because the respondent is suspended and he cannot compensate it. So far as the substantial loss the petitioner is concerned, Japfa Comfeed India Pvt. Ltd. is a leading Aggro Industrial Company and respondent is employee. Therefore, due to framing of preliminary issue on the point of workman and staying the effect of order dated 24/07/2023 no substantial loss will cause to the petitioner. Moreover the petitioner has not made out any ingredient of aforesaid conditions to show that the petitioner will sustain substantial loss and more hardship will cause to him if the order dated 11/10/2023 is not stayed.

10. The Complaint(ULP) No. 60/2023 pending before Ld. Labour Court is at the stage of evidence on preliminary issue. Both parties have opportunity to lead evidence in said proceeding. If the proceedings before the Ld. Labour Court are stayed without

justifiable ground then it will cause more hardship to complainant as compared to revision petitioner. The revision petitioner prima facie failed to established that framing of preliminary issue of workman and stay to the order dated 24/07/2023 will cause substantial loss to the petitioner. The revision petitioner failed to satisfy this Court that the application has been made without unreasonable delay and substantial loss will result to the petitioner unless the order dated 11/10/2023 is stayed. There is no just and proper ground to stay the order dated 11/10/2023 below Exh. U-2, hence, application Exh. C-2 deserves to be rejected. Consequently, I pass the following order :-

ORDER

- 1) The application Exh. C-2 is rejected.
- 2) No order as to costs.

Date : 29-08-2024.

(Shri. S. M. Bukke)
MEMBER,
INDUSTRIAL COURT, PUNE.

amj/-