

MHIC120003602019



IN THE INDUSTRIAL TRIBUNAL, AT PUNE
BEFORE SHRI. K.N. GAUTAM, PRESIDING OFFICER

Reference (IT) No. 44 of 2019

M/s Dr. D. Y. Patil Institute of
Management and Entrepreneur Development
and Dr. D. Y. Patil College
Dist Pune 411 507.

... First Party

VERSUS

Pune Mazdoor Sanghatana
Pune 411 002.

... Second Party

ORDER BELOW EXH. U-5
(Dated : 12.07.2023)

Perused the application and reply of the First Party at Exh. C-13. Heard learned counsels for both the sides. I have also gone through the case record.

2. The Second Party contended that First Party filed written statement dated 18.8.2022 at Exh. C-16 and admitted in para 10 that concerned employees i.e. members of the Second Party union contesting the present reference have not reported on work and remained absent and they were not terminated as alleged. It is contended that in such circumstances, the concerned employees are ready to join their duties with the First Party. It is contended that it will take time to decide the main reference on

merit, hence it is necessary to allow the concerned employees i.e. members of the Second Party union to resume their duties. It is contended that the concerned employees are in need of employment, hence it is necessary to allow them to resume their duties with the First Party. Therefore, the application for interim relief may be allowed and the First Party may be directed to allow the concerned employees named in Annexure A of the reference to resume duties.

3. The First Party denied the contentions of the Second Party raised in application for interim relief. It is contended that the application filed by the Second Party is illegal and reinstatement cannot be claimed by way of interim relief when the Second Party is claiming the same as final relief. It is contended that in written statement the First Party clearly stated that concerned workmen have made false and malicious complaint against the management of the First Party and when they realized their fault they have opted to remain absent from work. On filing of reference the concerned workmen filed their statement of claim after lapse of two years. It is contended that the concerned workmen were working as peons. The First Party institute cannot function at the vagaries of the employees and it requires peons to operate and carry out its functions. The management cannot keep the posts of concerned workman / peons vacant indefinitely and today there is no vacancy in the category of the concerned workmen. Hence, the First Party unable to accommodate the concerned workmen. Lastly, it is contended that in such circumstances, the application may be rejected.

4. In the instant reference, it is clear from the record that the reference was registered on 6.6.2019 and the statement of claim was filed by the Second Party after lapse of more than two years. The First Party contended that it has not terminated the services of the members of the Second Party, but they have themselves remained absent from work and left the service. So, obviously for such long period of more than two years, the First Party cannot wait for the concerned workmen to resume duty and to keep their posts vacant. Moreover, the reference sent with demands of the concerned workmen that they were terminated from service and they may be reinstated with back wages and consequential benefits. So, at this stage, the final relief claimed in reference cannot be granted at interim stage and the Second Party is required to prove its contentions by leading evidence. In such circumstances, application for interim relief is liable to be rejected.

5. In the result, I pass following order :

ORDER

1. Application [Exh. U-5] is hereby rejected.
2. No order as to the costs.

Place : Pune

Date : 12.07.2023

(K.N. Gautam)
Presiding Officer,
Industrial Tribunal, Pune

Secretary
Industrial Tribunal, Pune