

IN THE INDUSTRIAL COURT AT AURANGABAD
(Presided over by S. S. MAUDEKAR, Member)

COMPLAINT (ULP) NO.330 OF 2017
[CNR NO.MHIC20-00982-2016]

Suraj s/o Apparao Joshi

... **COMPLAINANT**

Versus

[1]Chairman and Managing Director,
Dainik Bhaskar Group
Plot No.06, Dwarka Sadan,
Press Complex M.P. Nagar,
Bhopal (M.P.) & (2) Others.

.. **RESPONDENTS**

ORDER BELOW EXH.C-8

[Passed on 30th day of August,2024]

This is an application for dismissal of the complaint as being not maintainable.

2. According to the respondents, the complainant has filed this complaint after termination of his services and the complaint has become infructuous. The respondents have filed written statement and have objected about maintainability of the complaint on the ground that the complainant is not a workman and employee within the meaning of Section 2(S) and Section 3(5) of the Industrial Disputes Act and MRTU & PULP Act respectively. The complainant was working as News Editor and he is working journalist. He has referred about reference under the provisions of Working Journalists and Other Newspaper Employees (Conditions of

Service) and Misc. Provisions Act, 1955. It is claimed that the Hon'ble High Court has delivered judgment in Writ Petition No.9112/2019 on 29-02-2024 it was held that working journalist under Section 3 of the said Act are not included in the definition of employee under Section 3(5) of the MRTU & PULP Act. So the complaint is not maintainable. In para (68) also, it was observed that there is no question of leading evidence to show how an individual working journalist would fall within the definition of employee. Hence, it is prayed to dispose of the complaint as not maintainable.

3] The say of the complainant is at rear side of the application wherein the complainant has claimed that in the complaint para (2)(b) he has claimed that he was appointed as Telephone Operator and the said fact has not been disputed by the respondent, hence the said Judgment mentioned in the application is not applicable at all . Accordingly it is prayed to reject the application.

4] Perused the record. Heard the learned counsel for the respective parties. In the present complaint, the complainant has challenged transfer order dt.01-11-2017 alleging unfair labour practice under Section 28 and 30 r/w Item Nos. 1 (a) and (b) of Schedule II and Item nos.3,5,9 and 10 of Schedule IV of the MRTU & PULP Act. Another connected matter is also pending which was filed earlier. But surprisingly no such application was filed by the respondent in that matter. The Hon'ble High Court in the said judgment has specifically observed that the working journalist under Section (g) of the said Act are not included in the

definition of employee. Under Section MRTU & PULP Act . So the complaint is not maintainable and no evidence can be permitted to be adduced by the parties. In the present complaint, as pointed out by the complainant, he is said to have been appointed as Telephone Operator on 10-06-2011. Later on he came to be promoted as a Managee Associate, but still the said post of Telephone Operator or Manager Associate are not included in the definition of employee under the said Act or even in various categories of working journalist in Award of Majethia Wag Board. So prima facie, even if there is some mention of non-compliance of implementations of Majethia Wage Board, the complaint cannot be said to be barred or not maintainable on the basis of the ratio laid down in the said judgment. Though the respondents have even claimed that the complainant was not an employee or workman but that point can be considered on merit. So, summary dismissal of the complaint cannot be permitted and the application is not maintainable. As such I pass the following order:

ORDER

1.	The application is rejected.
2.	The complainant shall adduce evidence on next date without fail.
2.	Cost in cause.

Place:-Aurangabad.

Sd/-

Date -30-08-2024

(S.S. Maudekar)

Member,

Industrial Court, Aurangabad

kad/-