

**BEFORE THE INDUSTRIAL COURT, MAHARASHTRA, (AMRAVATI BENCH), A M R A V A T I.**

**COMPLAINT (ULP) No.85/2023.**  
**CNR No.MHIC27000126-2023.**

Vijay Pundlikrao Kavitkar

----- Versus -----

Chief Executive Officer, Zilla Parishad, Amravati.

**ORDER BELOW EXH.C-14**  
**(Delivered on 6-05-2024)**

01] By filing this application the respondent is seeking amendment in the written statement. The complainant filed reply and opposed the application.

02] Heard both sides. Ld. Advocate for respondent submitted that they want to add Para No.10A in written statement and wants to make new submissions which are important for the adjudication of the case. It is submitted that, the respondent has taken action on the report of Womens Grievance Committee. The matter relates to the harassment of woman at service place and, therefore, the complainant was found guilty of misconduct. It is submitted that accordingly the respondent passed transfer order and one increment of complainant was also barred. The respondent wants to add these facts in the written statement. On the other hand Ld. Advocate for complainant submitted that, there are certain rules of amendment and for consequential amendment. The application is not signed by Chief Executive Officer and there is no authority letter filed on record which authorised the Deputy Chief Executive Officer to

proceed with the case. It is submitted that the very nature of consequential amendment changes and, therefore, the application is not tenable.

03] I have gone through the record. The matter relates to the challenge of transfer order of the complainant. Previously the complainant amended his pleading by adding Para No.10 A. The respondent previously filed application Exh.C-13 for consequential amendment but it was not pressed as there was no verification and affirmation on the part of respondent. Now the present application is filed by the respondent on affidavit and by making verification. The respondent has filed letter of authority given by the Chief Executive Officer stating that the Head of concern departments can proceed with the court cases. As well as letter dated 23.02.2024 is also filed authorising Deputy CEO, Balasaheb Bayas to take the charge of administration and financial matters. Accordingly on the basis of these authority letters, the Deputy CEO filed this application on behalf of respondent. I do not find any illegality in it. Having charge of CEO the Deputy CEO is appeared in this matter on behalf of respondent Zilla Parishad and, therefore, there is nothing illegal in it. I am not agree with the submissions of Ld. Advocate for complainant that a person who is not party in the complaint has filed this application.

03] Pursis is filed on record by complainant below Exh.U-51 stating that, the complainant is working at Executive Engineer (Construction Department) and they are the Head of complainant. It is submitted that, there is no signature of the Head of Department on the present application and written

statement. Considering the submissions of Ld. Advocate for respondent and authority letters filed on record, I am not agree with the submissions of Ld. Advocate for complainant. When there is authority letter in the name of Deputy CEO who is handling the administrative as well as financial work, he can proceed with the case on behalf of Zilla Parishad. It is to be noted here that, the name of respondent in the pleading is Chief Executive Officer and, therefore, it cannot be said that, the Head of Department i.e. Executive Engineer ought to have filed this application. Such submission of Ld. Advocate for complainant is not sustainable.

04] Ld. Advocate for complainant relied on the observations of Hon'ble Bombay High Court in the case of **Bharat Petroleum Corporation Limited Vs. Precious Finance Investment Pvt. Ltd., 2006 (6) Bom. C.R. 510.** In the cited case certain guidelines are given for the amendment in the pleading. I have gone through the principles/guidelines given in the cited case. Hon'ble High Court observed as below :-

*“When one of the parties has been permitted to amend his pleading, an opportunity has to be given to the opposite party to amend his pleading. The opposite party shall also have to make an application under [Order 6 Rule 17 of CPC](#) which, of course, would ordinarily and liberally be allowed. Such amendments are known as "consequential amendments". However, anew plea cannot be permitted to be added in the garb of a consequential amendment, though it can be applied by way of an independent or primary amendment”.*

In the present case the respondent has denied the

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allegations of complainant made in Para No.10 A of complaint as well as put their case regarding allegations and enquiry on the complainant. The entire burden is on the concern parties to prove their pleadings by adducing ample evidence. Presently when complainant had amended the plaint, the respondent has every right to deny the contention and amend their pleading in written statement.

05] Considering the submissions of both sides I hold that the application is deserves to be allowed for proper adjudication in the matter. Therefore, I proceed to pass following order.

**ORDER**

- 1] Application is Exh.C-14 is allowed.
- 2] The respondent is permitted to add the pleading in written statement by adding Para No.10 A and permitted to amend additional written statement as prayed for.
- 3] The respondent to carry out the amendment till next date and submit amended written statement.
- 4] No order as to costs.

Amravati  
Date :- 6.05.2024.

(D. N. Surwase)  
Member,  
Industrial Court, Amravati.

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