

... 1 ...

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

COMPLAINT ULP No.111/2015.
CNR No.MHIC270002042015.

Shyam Babaraoji Indrawane.

--- **APPLICANT**

----- Versus -----

Maharashtra State Road Transport Corporation, through its Regional Manager, Shivaji Nagar, Amravati and two others.

--- **NONAPPLICANTS**

ORDER BELOW EXH.U-2
(Delivered On 17-02-2018)

This is an application filed by the applicant under Section 30(2) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (in short M.R.T.U. and P.U.L.P. Act) for grant of interim relief, till disposal of the main complaint.

2. The facts of the case of the applicant is that, the applicant filed complaint under Sec.28 read with Items 5, 6 and 9 of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971 for declaration of unfair labour practice for not extending the benefits of regularisation and permanency to the applicant. It is the specific case of the applicant that he is working with the nonapplicants since last more than two decades

... 2 ...

... 2 ...

continuously, the work of cleaning the buses regularly. According to applicant, the work performed by him is of a permanent nature and it last throughout the year on each day. However, just to deprive the applicant from getting the wages and benefits of permanent employee, he is continued to work as a daily wager. According to applicant, due to filing of the complaint for getting the regularisation, there is apprehension in the mind of the applicant that his services may likely to be terminated by the nonapplicants, therefore, prayed that direct the nonapplicants not to discontinue the applicant from the services and not to break in service, till the disposal of the main complaint.

3. The nonapplicants denied all adverse allegations as alleged by the applicant vide Reply and Written Statement marked as Exh.C-4. According to nonapplicants, the applicant is not working in any post, but the applicant was provided the work as per availability of the work. It is further stated that the applicant does not come within the purview of 'workman', therefore, he can not invoke the jurisdiction of this Court for getting the permanency. It is further contention of the nonapplicants that the applicant is continued by virtue of order of the Courts and the applicant is not entitled for any benefit of regularisation and thus, prayed that application for interim relief be rejected.

4. The following Points arises for my determination and my findings thereon are as under :-

... 3 ...

... 3 ...

<u>Points</u>	<u>Findings</u>
1. Whether the applicant has shown prima - facie case for grant of interim relief ?	Yes.
2. Whether balance of convenience lies in favour of the applicant ?	Yes.
3. What order ?	Application is allowed.
5. I have heard the arguments as advanced by the Counsel appearing for the applicant and Law Officer for the nonapplicant.	

Reasons

6. Points No.1 to 3 :- The Counsel for the applicant vehemently argued that the applicant is working since last two decades continuously and performing the work of cleaning the buses, but applicant was kept on temporary basis and very meager amount is paid to the applicant. It is contended that the nature of work performed by the applicant are perennial nature, but the nonapplicants kept the applicant on temporary basis to deprive the benefits of permanency. According to Counsel for the applicant, due to filing of this case for getting the benefits of regularisation, there is an apprehension in the mind of the applicant that his services may likely to be discontinued by the nonapplicants. Therefore, prayed that by way of interim relief direct the nonapplicants not to terminate the services of applicant, till the disposal of the main complaint.

... 4 ...

... 4 ...

7. As against this, the Counsel for the nonapplicants vehemently argued that the applicant is not the regular employee of the nonapplicants and does not come under the purview of 'workman', therefore, the applicant is not entitled for benefit of regularisation. It is further contended that the applicant is appointed purely on temporary basis for cleaning the buses.

8. After considering the contentions of both parties and after careful perusal of the various documents on record, it is seen that the applicant filed this case for getting the benefits of regularisation. From the pleading of the complaint, it is seen that, it is the contention of the applicant that he is working as a Cleaner at Workshop at Chandur Railway Depot since June 1985 to clean and wash the buses of the Depot. The documents produced vide list Exh.U-3 shows that the services of the applicant was terminated, therefore, the applicant filed Com.-ULP-No.384/1993 before the Labour Court, Amravati, the said complaint was allowed by the Labour Court on 20.12.2010 and directed the nonapplicants to reinstate the applicant on the post of Cleaner with continuity of service and 30% of the back wages. The said order of Labour Court is confirmed by the Industrial Court on 4.8.2012 in Rev.-ULP-No.7/2011. It is also seen that the nonapplicants filed Writ Petition before the Hon'ble High Court and the Hon'ble High Court confirmed the order of the Labour Court and the Industrial Court in respect of order of

... 5 ...

... 5 ...

reinstatement and order of payment of back wages is set aside.

9. After considering the voluminous documents and the facts of the case, I am of the view that the applicant is entitled for protection as prayed, because the Hon'ble Supreme Court in the case reported in 2009 III CLR 262, in the case of M.S.R.T. Corporation -Vs- Castribe Rajya P. Karmachari Sanghatana, wherein the Hon'ble Supreme Court held that whenever the employee filed a case for regularisation, the Industrial Court protect the employment of the employee, till the decision of the main complaint. In the case reported in 2003 Mh. L.J. 745, in the case of Saudi Arabian Airlines -Vs- Ashok Margovind Panchal and Ors. The Hon'ble High Court observed that, it is the duty of the Industrial Court to protect the employment by ordering continuation of status quo during the pendency of the complaint.

10. Considering the law laid down by the Hon'ble Supreme Court and the Hon'ble High Court, I am of the view that the applicant is entitled for the interim relief as prayed. However, the blanket order of not to terminate the services can not be granted, because it is the right of the employer to terminate the services of the employee after following due procedure of law, therefore, this Court can direct the nonapplicants not to terminate the services of the applicant without following due procedure of law. After considering the facts and circumstances, I proceed to pass the following order.

... 6 ...

... 6 ...

ORDER

1. The application at Exh.U-2 is allowed.
2. The nonapplicants are directed not to terminate the services of the applicant without following due process of law, till the disposal of the main complaint.

Date :-17.02.2018.
Amravati.

Sd/-
(V. P. Karekar)
Member,
Industrial Court, Amravati.

SVK/-.