



**BEFORE K. R. ADAKE, PRESIDING OFFICER,
FIRST LABOUR COURT, KOLHAPUR.
(JO CODE-MH-2980)**

REFERENCE (IDA) NO.105/2018
(CNR NO : MHLCO9-000559-2018)

Shetakari Sahakari Sangh Ltd.,
Old Rajwada, Bhawani Mandap,
Kolhapur

.... **First Party**

And

Shri. Madhukar Ganpati Gijawane,
R/o. Sanapati Kapashi, Tal. Karveer,
Dist. Kolhapur.

.... **Second Party**

ORDER BELOW EXH.C-10
(Passed on : 14/11/2022)

1. This is an application filed by the First Party seeking amendment in the written statement as per provisions of Section-6 (17) of CPC. The Second Party's Advocate has submitted reply at Exh.U-11 and thereby resisted contentions of the First Party.

2. Heard Adv. A. D. Patil for the First Party and Adv. B. B. Powar for the Second Party. In support of argument advanced, Adv. Patil for the First Party has relied upon the citations filed by list. I have gone through the record of proceeding. The Second Party has raised dispute regarding termination from the services of the First Party w.e.f. 21/02/2005. The First Party has appeared in the matter through

advocate and filed written statement at Exh.C-2 and thereby resisted the contentions of the Second Party. After hearing both the parties, my Learned Predecessor was pleased to finally passed the Award and thereby 'partly allowed' the present reference. Feeling aggrieved by the said award, the First Party has filed Writ Petition before the Hon'ble Bombay High Court. The Hon'ble Bombay High Court after hearing both the parties was pleased to allow the Writ Petition and thereby directed this Court to decide the reference afresh. Thereafter, the First Party has moved the present application seeking amendment to the written statement.

3. Adv. Patil while arguing the matter has submitted that as per the observations made by the Predecessor of this Court and Hon'ble High Court, the First Party felt it necessary to amend the written statement without alteration of defense. Due to the said amendment there will be no any change in the nature of original defense which is taken in the written statement by the First Party and prayed to allow an application.

4. Adv. B. B. Powar for the Second Party while arguing the matter has submitted that the application seeking amendment is false. The defense taken by the First Party is already covered in the written statement. The present application seeking amendment is after thought. He prayed to reject an application.

5. I have gone through the contents of written statement. On perusal of the written statement, it reflects that Para No. 26 and 27 of the written statement is regarding Section 2-A amendment and effect of

that amendment. It also contain contentions regarding limitation, inordinate delay and latches. Para No. 13 of the written statement is regarding denial of Para No. 5, 6 and 7 of the statement of claim in respect of “Nokarnama.” Para No. 27 of the written statement is again regarding contentions of condonation of delay. By way of present amendment application the First Party is seeking amendment in respect of addition to Para No. 26 regarding Section 2-A demand notice, failure report etc. The another amendment which First Party is seeking is regarding addition of Para-14 in respect of “Nokarnama.” The further amendment is regarding the addition in Para No.27 regarding delay condonation etc. and Para No. 28 regarding principle of law that every case should be decided on it’s own merits etc.

6. Considering the facts and circumstances, arguments of both the parties and citations relied upon by the First Party, I am of the opinion that, the proposed amendment will not change the nature of dispute. It will not change the defense of the First Party as the First Party has already taken the concerned contentions in the written statement, as stated earlier. I am of the opinion that by way of present amendment the First Party wishes to add the contentions in more detail manner which were already taken in the written statement. Considering the facts and circumstances, I am of the opinion that, if the present application is not allowed, the First Party will suffer hardship. On the other hand, the Second Party will not suffer any hardship as Second Party will also get an opportunity to defend their case on merit. Hence, I proceed to pass following order :

ORDER

- (i) Application at Exh. C-10 is allowed.
- (ii) The First Party is directed to carry out the necessary amendment as prayed for by way of present application within Fourteen days from the date of order.
- (iii) No order as to costs.

Kolhapur.
Dated : 14/11/2022

(K. R. Adake)
Presiding Officer,
First Labour Court, Kolhapur