

BEFORE THE JUDGE, 2ND LABOUR COURT AT AURANGABAD
(Presided over by S. S. Sahasrabudhe)

Complaint IT No.–01 of 2024

IN

Reference IDA No.78/2017

CNR No.MHLC200002532024

01. Abasaheb Machhindra Salunke
Age – 40 yrs., Occupation : Nil,
R/o. Mamnapur, Khultabad, Aurangabad.
Mob. No. 9011045643

02. Indust Mobile Tower Technical Karmachari
Sanghatna (Through its President),
K-75/6, N-9, Pawan Nagar, CIDCO,
Aurangabad.

...Complainants

Versus

01. M/s. Indus Towers Ltd.,
(Through Its Manager), E-Core, 210,
IInd Floor, Marvel Edge, Viman Nagar,
Pune – 411014.

02. M/s. Teamlease Services Pvt. Ltd.,
(Through its Manager), Awfis Space
Pvt. Ltd., 1st Floor, Nucleus Mall,
Opp. Commissioner Office, 1, Church
Road Camp, Pune – 411 001

...Respondents

Appearance :

Shri. B.S. Shinde, Advocate for Complainants
Shri. Y.I. Thole, Advocate for respondents.

ORDER BELOW EXH.U-2

(Passed on this 17th day of March, 2025)

This is an application for interim relief U/s.33A of Industrial
Dispute Act, 1947 filed by complainants against respondents for

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reinstate the complainant otherwise provide work and pay full wages from November, 2023.

The brief facts of the case of complainants are as under :-

2. It is the contention of complainants that, the complainant is working since 2009 as a Technician with the respondent No1 but his service were not regularized by the respondent No.1. The name of complainant was enrolled on the roll of different name lending contractor On the above reasons the complainant raised industrial dispute of regularization of services against respondents.

3. The appropriate government referred the said Industrial Dispute before Labour Court for adjudication and is pending before Labour Court, Aurangabad as Reference (IDA) No.78/2017 for hearing. During pendency of industrial dispute the respondent No.1 is trying to change or changed the service conditions of the complainant.

4. The complainant further submits that, in the month of November 2023 the respondent No.1 introduced new Labour Contractor by terminating earlier Labour Contract. The complainant and other employees were insisted to sign employment paper of newly appointed contractor. The complainant and other some of employees refused to sign such papers therefore, the respondent No.1 not allowing employees those refused to sign paper new contractor.

5. The complainant is not allowed to sign muster roll or

not allowed to perform his regular work. The wages of complainant is unpaid since November 2023. It is directed that, unless he sign the documents of newly appointed contractor till then he will not be permitted to work with the respondent No.1. On the reason of refusal of work or oral termination present application unless section 33A is filed before the Hon'ble Court.

6. For the sake of repetition the complainant submit that, the complainant is an employee of respondent No.1 and exclusively worked for respondent No.1 from 2009 onwards as a Technician. Though the complainant is working for respondent No.1 perennial work, his name was enrolled on the roll of different name lending contractor with intention to avoid permanency and regularization. The complainant and union raised industrial dispute of regularization against the respondents and is pending for adjudication. The respondents are appeared before the Labour Court and contesting the matter.

7. It is treat law that the services of applicant cannot be terminated or discontinued without following due procedure of Section 33 of IDA 1947. On 16.11.2023 the respondent No.1 instructed the complainant to sign the papers of newly appointed name lending contractor. The complainant refused to sign such paper therefore from 16.11.2023 the respondent No.1 orally terminated his service without following due procedure of law provided under the Act.

8. The respondents failed to comply provisions of

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section 33 of Industrial Dispute Act or not permission is obtained from the Labour Court before issuance of termination. The complainant and union filed several representation before the respondents as well as government authority, requesting them for work or continuations in employment with full back-wages as well as direction for similar nature. The respondents failed to take proper steps of providing work or continuation in employment with unpaid wages.

9. The respondent has not issued written order of termination and refusing work on the reason of non signing paper with newly appointed contractor. The complainant has apprehension that, the respondent may keep the complaint outsider the employment by using such modus operandi. The services of complainant are already protected by virtue of industrial dispute therefore, the respondents have no right to terminate his services or refuse work / wages till pendency of industrial dispute.

10. The instant complaint under section 33A of IDA 1947 if filed for reinstatement, continuation of employment and full wages. That the contents of the accompanying complaint may please be read as part of this application and the same have not been reproduced here for the sake of brevity.

11. That the complainant has a good prima-facie case and there are every chances of the complainant to succeed in the matter. That, the balance of convenience is strong in favour of the complainant and against the respondents. The complainant will after

irreparable manifesto and loss if the interim relief prayed for is not granted. It is therefore most respectfully prayed that, this Hon'ble Court may be please to. Finally the complainant submits that, to allow the application with other appropriate relief or order as deemed fit and proper o this Hon'ble Court may also be passed.

12. Respondent No.2 HAS filed it's written statement at Exh.C-5 and submitted that, M/s. TeamLease Services Ltd., respondent No.No.2 is a company engaged in the business of Human Resource Outsourcing and deploying the manpower on fixed term contract to their vendor. The respondent No.2 company has authorized its officer Mr. Dipayan Dasgupta to represent before the Hon'ble Court, who is well aware of the facts of the present matter.

13. That, the complaint filed by the complainant in present case is false, frivolous and gross abuse of the process of law. The complainant has suppressed material information and has made false statement with an objection to prejudice the mind of this Hon'ble Court. The complainant has not approached this Hon'ble Court with clean hands. Therefore, the complaint against Respondent No.2 is liable to be dismissed.

14. It is humbly submitted that, the contents of the complaint shall be deemed to be denied unless it is specifically admitted in the foregoing paragraph of the reply. It is humbly submitted that, to avoid the repetition of the fact the reply / written statement is filed thereby incorporating the true and correct facts for consideration of this

Hon'ble Court.

15. The relationship of the respondent No.2 with respondent No.1 and complainant was contractual and that too for a specific period, subject to terms and conditions of the contract, wherein, it was specifically expressed that, the said relationship was contractual in nature, for a certain specific period.

16. On the Termination of Agreement by respondent No.1 with the respondent No.2, company has terminated the contract categorically adhering to the terms and conditions of the said contract. There is no violation of any of the provision of the Contract Labour (R & A) Act, 1970, the Industrial Disputes Act, 1947, the MRTU & PULP Act, 1971.

17. With reference to the complaint, the respondent No.2, submits that, after the respondent No.1 has terminated the services of respondent No.2 vide its letter dated 29.09.2017 from 30.09.2017, further improvements / incident happened, mentioned in complaint are not concerned with it and no known to respondent No.2. The respondent No.2 is not in capacity to change in service conditions in subject matter, hence could not be held responsible for the allegations.

18. That, on the date which the complainant has been terminated from the services, respondent No.2 was not a party to the incidence of termination, hence respondent No.2 is misjoinder to the

present complaint.

19. That, complainant has not any concern and complaint with respondent No.2, and also has not seeking any relief against respondent No.2.

20. With reference to paragraph No.1 of the complaint, the respondent No.2, submits that, since the paragraph is about the respondent No.1, respondent No.2 has no say for the same, hence neither denied nor accepted the same.

21. That respondent No.2 was appointed for providing manpower to respondent No.1 as per agreement. After the respondent No.1 has terminated the services of respondent No.2 vide its letter dated 29.09.2017 from 30.09.2017, since complainant is not having any relations with respondent No.2 from the period 30.09.2017. It is not true that, respondent No.2 was name lender contractor by respondent No.1 for ulterior motive. Hence filing of the complaint against respondent No.2, after the said period when, there are no any relations with the complainant is bad in law and needs to be rejected. Respondent No.2 has intimated to the Technical Karmachari Sanghatna about discontinuation of work consequent to expiry of agreement with Indus Tower Ltd., vide its letter dated 03.10.2017.

22. With reference to paragraph No.3 of the complainant, the respondent No.2 submits that, appointment of complainant was made for fix term employment contract, the

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relationship of the complainant and the respondent No.2 was contractual and that too for a specific period, subject to terms and conditions of the contract. Other contentions of the complainant are not concerned with respondent No.2, hence denied. After the respondent No.1 has terminated the services of respondent No.2 vide its letter dated 29.09.2017 from 30.09.2017, previous and further improvement / incident happened, mentioned in para are not known to respondent No.2, hence could not reply about same.

23. That, after the discontinuation of service of respondent No.2 from 30.09.2017, respondent is not aware of the incidence mentioned in para 4 previous and further improvements / incident happened, mentioned in para are not known to respondent No.2, hence could not reply about same.

24. With reference to paragraph No.5 of the complaint, the respondent No.2 submits that, matter was posted for reconciliation proceeding before regional Labour Commissioner (Central) Pune, respondent No.2 with all other concern parties remains present to all proceeding and present their say before the authority. On non-settlement of issue, conciliation proceeding was closed by the authority.

25. With reference to paragraph No.6 of the complaint, the respondent No.2 submits that, agreement between respondent No.1 and respondent No.2 regarding providing the manpower services for contractual period, and accordingly appointment of manpower for Fix Term Employment Contract is in accordance with law. Appointment of

complainant was made for fix Term Employment Contract, the relationship of the complainant and the respondent No.2 was contractual and that too for a specific period, subject to terms and conditions of the contract. As the contract was for fix period, question of keeping the complainant temporary years together and depriving from the benefit of permanency does not arises. The respondent No.2 is having registered under Contract Labour Act (R & A) Act, 1970, vide registration No.RLCP-35 (23)-2010, subsequent to which obtained the CLRA Licence as per provisions of the CLRA Act, 1970. Respondent No.2 is law abiding firm and never indulge in any unfair labour practice which will lead to any exploitation, as mentioned in para.

26. That, work conditions were with accordance to the law and legal and fair. It has also clarified that, it is well settled proposition in the law that, merely because a contract between principal employer and the contractor is existing for a very long time, that cannot be a clue to decide that the contractor was not true that, respondent during the proceeding did not co-operate to the conciliation officer.

27. With reference to paragraph No.7 of the complaint, the respondent No.2, submits that, after the respondent No.1 has terminated the services of respondent No.2 vide its letter dated 29.09.2017 from 30.09.2017, further improvements / incidents happened after 30.09.2017, mentioned in para are not known to respondent No.2, hence could not reply about same and cannot be held

responsible for the same under any law.

28. That, in the para 9, 10 & 11, complainant has complaint about respondent No.1, respondent No.1 has terminated the services of respondent No.2 vide its letter dated 29.09.2017 from 30.09.2017, further improvements / incidents happened after 30.09.2017, mentioned in para are not known to respondent No.2, hence could not reply and cannot be held responsible for the same under any law.

29. That, in the para No.12 complainant has complaint about respondent No.1, respondent No.1 has terminated the services of respondent No.2 vide its letter dated 29.09.2017 from 30.09.2017, further improvements / incidents happened after 30.09.2017 mentioned in para are not known to respondent No.2, hence could not reply about same and cannot be held responsible for the same under any law. However, as mentioned in para complainant has not made a party to M/s. Pratap Technocrats Pvt. Ltd., who has created or imposed his new service conditions.

30. That, in the para 13, 14 & 15, complainant has complaint about respondent No.1, respondent No.1 has terminated the services of respondent No.2 vide its letter dated 29.09.2017 from 30.09.2017, further improvements / incidents happened after 30.09.2017, mentioned in para are not known to respondent No.2, hence could not reply and cannot be held responsible for the same under any law.

31. That, in view of the complaint contentions and interim relief application by the complainant, being the same issues are raised, to avoid the repetitions, reply / written statement to the complaint may be consider replying of interim relief objection.

32. That, to avoid the reputations of the fact this reply / written statement is filed for complaint and interim application, thereby incorporating the true and correct facts for consideration of this Hon'ble Court.

33. That, application made for interim relief filed by the applicant is not maintainable against the respondent No.2, as there are no such provision in law as stated by the applicant.

34. That, respondent No.2 has terminated the services of respondent No.2 vide its letter dated 29.09.2017 from 30.09.2017, further improvements / incidents happened after 30.09.2017, mentioned in para are not known to respondent No.2, hence, could not reply about same and cannot be held responsible for the continuation of work contract, hence respondent No.2 is not in capacity to change in service condition in subject matter, hence could not be held responsible fort he said allegations.

35. The respondent No.2 submits that, the complainant is also not having any issue against the the respondent No.2 neither the complainant is not seeking any relief against respondent No.2, is liable to be quashed against respondent No.2.

On the basis of above rival contentions of the parties following points arise for my consideration, against which I have recorded my findings thereon as follows :-

	<u>Points</u>	<u>Findings</u>
1	Whether the complainant has made out a case for grant of interim relief of reinstatement till pending disposal of main complaint?	In the negative.
2	Whether the balance of convenience lies in favour of the complainant ?	In the negative.
3	Does complainant prove that, if interim relief is not granted he would suffer irreparable loss?	In the negative.
4	What order?	As per order

REASONS

AS TO POINTS NO.1 to 4 :-

Heard both sides.

36. It appears that, complainant has filed the present proceeding as per Section 33 A of Industrial Dispute Act. It is alleged by the complainant that, a Central Govt. has referred this dispute to this court and same was registered as Ref./IDA No.78/2017. It is further submitted by the complainant that, when the dispute was pending before the Conciliation Officer and the process of conciliation was going on the name of present complainant was enrolled on different

contractor without obtaining prior permission of the competent authority / court. Thus the non-applicant as violated Section 33 of Industrial Dispute Act. Therefore the complainant prays to hold the respondent No.1 & 2 are guilty for the offence and prays to punish them. The complainant also prays to direct the respondent to reinstate him in service.

37. The complainant has filed present application in this proceeding and sought for interim relief to give the direction to the respondent to reinstate him in service till the decision of this complaint.

38. The respondent No.1 appeared in the case and filed his reply at Exh.C-9. The respondent No.2 has filed his reply at Exh.C-5. Both the respondents have denied the contention of complainant. It is submitted by the respondent that, the application of interim relief is not tenable, there is no provision in the act for seeking interim relief.

39. Admittedly, the complainant has filed the present proceeding as per Section 33 A of Industrial Dispute Act. If the said section is perused then it can be easily gathered that, it is provided in the section that, section 33 A is special provision for adjudication as to whether conditions of service, etc. changed during pendency of proceeding. It also appears that, if it is found by the court that, the employer has contravened the provision then in such case the court can direct the employer to reinstate the complainant in service, however for issuing such direction there must be substance before the court, that the

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employer has contravened Section 33 A or he has changed service conditions of employee. The employee as to establish the fact that, his employer has changed his service conditions. He can do so by adducing evidence before the court, unless and until such evidence is brought on record by the employee court can not inferred that, the employer has changed service condition in the result directions to reinstate the employee can not be given at this interim stage. Therefore I came to the conclusion that, the complainant failed to make out a case for grant of interim relief. The balance of convenience not lies in favour of the complainant, so also, the complainant will not suffer irreparable loss if interim relief is not granted to him, in the result I answer point No.1 to 3 are in negative and in answer to point no.5 I pass following order :-

Order

Application stands rejected.

Sd/-

[S. S. Sahasrabudhe]

Judge,

Labour Court-II, Aurangabad.

Place: Aurangabad

Date: 24/03/2025

CERTIFICATE

I affirm that the contents of this PDF file judgment/order are same, word to word, as per the original judgment/order.

Court : 2nd Labour Court, Aurangabad.

Date : 24.03.2025

order transcribed on : 24.03.2025