

**BEFORE THE JUDGE, LABOUR COURT-2 AT AURANGABAD**

**( Presided over by Shri. S. S. Sahasrabudhe )**

**Complaint ULP No.15/2022**  
**CNR NO.MHLC200002792022**

**Subhash S/o. Rambhau Bhawar**  
Age : 54 years, Occ. Nil,  
R/o. Krishnaur, Bidkin,  
Tal. Paithan, Dist. Aurangabad.

**..Complainant**

**V/s.**

**Nayantara Chemicals Pvt. Ltd.,**  
46,48, N.A. Paithan Road,  
Chitegaon, Tal. Paithan,  
Dist. Aurangabad.  
Through it's Manager.

**..Respondent**

.....  
**Appearance :**

Shri. P. B. Salunke, Advocate for complainant  
Shri. B. R. Kawre, Advocate for respondent.  
.....

**ORDER BELOW EXH.U-2**

(Passed on this 05<sup>th</sup> day of February, 2025)

The complainant has filed this complaint as per Section 28 r/w. Item 1, Schedule-IV of the MRTU & PULP Act, 1971 for challenging his oral termination dtd.02.04.2022. The complainant has filed this application for granting interim relief of reinstatement until the disposal of main complaint.

The brief facts of the application are as follows :-

2. That the complainant was appointed as a worker in the year 2011 and he was allotted work of maintenance of machine and other works. He has worked continuously from 2011 till his oral termination dated 02.04.2022 and in each year he had completed 240 days continuous service. His last drawn wages were Rs.28,125/-p.m. Respondent given him identity card and also maintained his attendance register. In the attendance register from April, 2015 to 31.03.2021 his name and signature is duly shown. Respondent has sent the proposal of Life Insurance Policy of the complainant to the HDFC Life Insurance Company Pvt.Ltd., and on 04.04.2020 HDFC Life Progrowth Flexi Policy was issued. On 25.11.2021 he met with an accident and his right shoulder was fractured. He was admitted in Tirumala Hospital and taken treatment under Dr.S.P. Tekade from 25.11.2021 to 04.12.2021 and he was discharged on 04.12.2021. Due to illness he has taken bed rest for near about 1 month and 15 days. However, on 02.04.2022 the respondent industry did not allow him to sign and join duties and prohibited to work. He requested time to time and filed application on 08.06.2022 but till today respondent has not given reply. No departmental enquiry was conducted against him. The respondent has not followed procedure laid down by law and without following principles of natural justice orally terminated him on 02.04.2022. There is no fault of complainant. The action on the part of respondent is ab-initio, illegal it is violating the provisions of Sec.25F of Industrial disputes Act,1947 and Rules. The said action of respondent squarely fall in the domain of Unfair labour practice under Item 1 of Sch.IV of the MRTU & PULP Act, 1971. The complainant was not given one month's

prior notice or notice pay and retrenchment compensation and orally terminated. He is unemployed and having no source of income and facing starvation. Hence, he has prima-facie case for grant of interim relief. Hence, he prayed for interim relief of direction to the respondent to reinstate him in service or to pay 75% monthly salary till final disposal of the complaint.

3. Respondent filed written statement at Exh.C-2 and opposed the application. Respondent contended that, respondent has engaged about 09 employees including staff and workmen. The staff includes Managers, supervisors, technical & non-technical employees. Some of non-technical hands were recruited and management imparts them special training for creation of skill amongst them at cost of company. As complainant was having Professional experience in the maintenance field, therefore he is key workman of respondent. He is performing in improvement of machine maintenance, responsible for all maintenance as well as manpower smooth functioning. The management considered his past experience, job responsibilities by offering responsible position of workman maintenance department. He was directed to report to Manager Maintenance. At the time of joining his salary was Rs.19000/- per month. The appointment is duly accepted by the complainant without any protest. Due to new production technologies, increased in cutthroat market competition, production losses, inadequate market demands and other several reason the management compelled to close Chitegaon factory w.e.f. 31.03.2022. Therefore, Management shifted employment of employees at Shalini Organic Pvt.Ltd., on same terms of

employment. All staff and workmen were joined at new employment place and working with the same terms of employment. However, complainant was offered the employment at new place but he failed to join at new place and remained absent till this date in unauthorized manner. The complainant has suppressed material facts that his services are not terminated and he is on roll of company but despite of that present complaint is filed without cause of action. Therefore, this Court has no jurisdiction to entertain the complaint unless he proves that there is oral termination. In absence of specific cause of action the complaint of termination is raised, which is not maintainable. Complainant has committed serious illegality of insubordination and unauthorized absenteeism by this reason and fear of disciplinary action he has filed present complaint. Respondent has never terminated the services of complainant. Therefore, there is no cause of action to entertain the present complaint. Hence, prayed for dismissal of complaint as well as as application for interim relief.

In view of rival pleadings of the parties, following points arises for arise for my consideration, against which I have recorded my findings thereon as follows :-

No.	<b><u>Points</u></b>	<b><u>Findings</u></b>
1	Whether the complainant has made out prima-facie case for grant of interim relief of reinstatement till pending disposal of main complaint?	No
2	Whether the balance of convenience lies in favour of the complainant ?	No

3	Does complainant prove that, if interim relief is not granted he would suffer irreparable loss?	No
4	What order?	As per final order

## **REASONS**

### **AS TO POINTS NO.1 TO 4 :-**

Heard Ld. Counsels for both sides.

4. It is the case of complainant that, on 25.11.2021 the complainant met with an accident and his right shoulder was fractured. During 25.11.2021 to 04.12.2021 he has taken treatment. Later on on 02.04.2022 the respondent did not allow him to sign the muster roll and prohibited him from doing the work. Thereafter the complainant time and again requested the respondent to allow him to resume the duty. Later on he submitted an application on 06.06.2022 with respondent but the respondent has not given him reply. It is also submitted that, the respondent has orally terminated his service without issuing any charge sheet and holding departmental enquiry. Hence, the complainant prays to direct the respondent to reinstate him in service till disposal of this complaint or in alternative direction be given to the respondent to pay 75% monthly salary to him.

5. On the other hand it is the contention of respondent that, the complainant himself unauthorizedly remained absent, so there is no question of violation of Section 25F. The respondents have not

terminated the service of complainant. On the other hand he himself failed to report at the relocated place of factory. Hence, the respondent prays to reject the application. It is also contended by the respondent that, respondent factory has closed manufacturing activities situated at Plot no.46, 48, Paithan Road, Aurangabad on 31.03.2022. At the time of closing said factory respondent have given option to the employees working with them to join alternative employment with Shalini Organic Pvt.Ltd., Option was also given to accept lump sum amount of full and final settlement. As per the respondent the complainant has opted to accept full and final settlement. Accordingly, the respondent has paid Rs.85,000/- on 10.05.2022. It is further submitted that, as the complainant has alleged oral termination at the hands of respondent and he is seeking relief of reinstatement, hence it would be equitable to direct the complainant to return entire benefits received by him.

6. It appears from the record that, there is no dispute in between parties regarding the employment of complainant with the respondent. The complainant has sought interim relief of reinstatement, on the other hand it is submitted by the respondent that, the respondent management has closed the plant of Chitegaon on 31.03.2022. It is also submitted by the respondent that, the respondent has already reinstated other employees to their other factory / system concern company i.e. Shalini Organics Pvt. Ltd. situated at Plot No.D-10, MIDC, Paithan, Aurangabad. It is also submitted that, all staff and workman have already joined at new employment place and working with the respondent with the same terms of employment. It is also

submitted by the respondent that, they have not terminated the service of complainant, but infact the complainant remained absent. As per the respondent there is no cause of action for filing this complaint. It appears that, both parties are submitting contrary to each other. It is the case of complainant that, his service was orally terminated by the respondent on 02.04.2022. On the other hand it is the contention of respondent that, the complainant himself remained absent and they have not terminated his service. Certainly, this aspect can be decided on merit. At this juncture it can not be ascertain as together the complainant remained absent on his own accord or his service was orally terminated by the respondent as alleged by the complainant. Therefore at this juncture it will not be just and proper to direct the respondent to reinstate the complainant in service. Moreover, the relief of reinstatement can be considered as final relief, hence the same relief can not be granted at this interim stage. It can be granted only after giving opportunities to both sides to lead evidence. Moreover, if at all if on merits the complainant has proved the fact that, his service was orally terminated by the respondent, in that case, certainly, the complainant will be entitled to back-wages, so also, for damages. Therefore there will not be any loss to the complainant in terms of money. Considering this aspect also, I came to the conclusion that, the complainant is not entitled for interim relief as sought. Therefore considering these aspects I came to the conclusion that, the complainant failed to make out prima-facie case for grant of interim relief, balance of convenience do not lie in favour of complainant and the complainant will not suffer irreparable loss, if interim relief is not granted. Hence, I

answer Point No.1 to 3 in the negative and in answer to point No.4, I pass following order :

**Order**

Application for interim relief stands rejected.

**Sd/-**

**[ S. S. Sahasrabudhe ]**

Judge,

Labour Court-II, Aurangabad.

Place: Aurangabad

Date: 05/02/2025

**CERTIFICATE**

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

Court : 2<sup>nd</sup> Labour Court, Aurangabad.

Order signed by PO : 05.02.2025

Order uploaded on : 05.02.2025