

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

Ref. IDA No.45/2018

Order Below Exh.U-59

(Dated : 23/08/2022)

1. The case is fixed for evidence on behalf of second parties i.e. employees. It appears from record that affidavit of examination-in-chief of employee Pandit Totaram Vispute was filed on behalf of Party no.2 at Exh.U-9. It also appears that in his evidence exhibits were given to the documents filed alongwith list Exh.U-11. Accordingly the documents exhibited as Exh.U-13 to U-48. It appears from evidence that lateron the Chief-examination was deferred on 15.03.2021 and since then the case is pending for further examination-in-chief. It appears that without completing further examination-in-chief, so also the cross-examination this application is filed by Party no.2 for calling 42 witnesses. As per the party no.2 they have produced and relied several documents. The said documents are signed by the persons mentioned in this application. As per the Party no.2 for proving documents in question it is necessary to call all the witnesses in Court. On the other hand it is the submission of Party no.1 that though the chief-examination of witness Pandit Vispute is recorded before this Court still his cross-examination is yet to be conducted. Therefore, this application is premature. It is also submitted that the party no.2 has not mentioned anything in respect of relevancy of the witnesses. Hence, it will not be just and proper to call these witnesses.
2. On perusal of record it is clear that, Party no.2 has filed documents alongwith list Exh.U-4. Admittedly, all these documents were issued by different authorities. However, it appears that the applicant has not mentioned anything in respect of necessity of all these referred witnesses. Admittedly the party no.2 who has claimed regularization in present proceeding. Therefore, the witnesses necessary for proving the said aspect and the documents filed on record in that connection can be said as necessary witnesses. Therefore, it was necessary for the party no.2 to mention these aspects in the present application in detail. However there are no details

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given in the present application. Moreover, admittedly, the cross-examination of first witness is yet to be conducted. Therefore, at this juncture witness summons cannot be issued to the witnesses, proving documents in question. Moreover, the another aspect necessary to be considered is that, number of documents are issued itself by the Party no.1. Therefore, it will be just and proper to grant opportunity to party no.1 to explain the facts in respect of admissibility of documents, if the documents produced by the party no.2 is admitted by the party no.1 in that case it is not at all necessary to issue witness summons, at least in respect of admitted documents. On perusal of record it appears that previously the Party no.2 has issued notice to admit documents. However, at that time the party no.1 has filed reply of the said notice that, party no.2 has filed zerox copies. It appears from the record that later on the party no.2 has filed documents on record, out of that documents number of documents are originals. Therefore, party no.1 may inspect the said documents and may file pursis as to whether said documents are admitted to them or not. Moreover, as discussed earlier number of documents are issued by the party no.1 itslef. Therefore, though the party no.2 has produced zerox copies of that documents still the party no.1 may admit the zerox copies, if the originals of said documents were issued by them. If the party no.1 has done this exercise, then there will be no necessity to call for the witness at least with respect of the documents which are admitted. Hence, considering these aspects I came to the conclusion it will be just and proper to grant the opportunity to party no.1 to inspect the documents filed by party no.2 and file pursis in respect of admissibility of said documents till then it will be just and proper to keep this application in abeyance.

Aurangabad
Dated : 23/08/2022

(S. S. Sahasrabudhe)
Judge,
2nd Labour Court, Aurangabad