

BEFORE THE JUDGE, LABOUR COURT, AMRAVATI.

Complaint (ULP) No.31 of 2018

CNR No. MHLC270000782018

Ganesh Sohanlal Sawalkar,

Vs

Shabri Adiwasi Vitta Va Vikas

Mahamandal Maryadit

ORDER BELOW EXH.C-9

(Passed on 06.02.2019)

The Respondent has filed this application for review of order passed below Ex.U2 on 17.11.2018.

2] According to Respondent, complainant had filed application Ex.U2 for interim relief. Respondent had raised defence that as per G.R dated 13.12.99 posts of respondent are not directly filled up. As such posts are to be filled by way of absorption from parent department i.e. Adivasi Vikas Mahamandal. Complainant was never recruited accordingly. He was illegally appointed. Legal position to grant interim relief needs to be considered. Respondent have not filed Revision against the order passed below Ex.U2. Legal position was not produced before the Court. Legal position is not considered while passing order below Ex.U2. It is apparent error and therefore review is necessary. respondent has referred decisions of Hon'ble Supreme Court. It is submitted that those judgments were not available at the time of consideration of order Ex.U2. It is submitted that no prejudice will be caused to the applicant. If appointment of applicant is arbitrary then termination will be arbitrary. Interim relief

.....2/-

granted is not in consonance with law and needs to be reviewed. On these grounds, it is prayed that review application be allowed and order below Ex.U2 be reviewed.

3] The application is opposed by the complainant stating that there is no error apparent on the face of record. No new facts and documents are placed on record by respondent. Therefore order cannot be reviewed. This Court has considered entire documents, facts and submissions of parties. Only with a view to deprive complainant from benefits of order, with malafide intention, present application is filed. All the averments in the application are denied and it is prayed that application be rejected with costs.

4] Heard learned advocates for the parties and gone through the written arguments filed below exh. C-10. Present complaint is filed alleging unfair labour practice on the part of respondent. Complainant had filed application Ex.U2 for grant of interim relief directing respondent to reinstate him in service till decision of main complaint. On 17.11.2018 said application came to be allowed and respondents are directed to reinstate complainant in service till decision of main complaint. Thereafter present application came to be filed on 15.12.2018. After going through the application and written notes of arguments Ex.C10 it is seen that according to respondent there was no recruitment procedure followed to appoint complainant. The posts were to be filled as per G.R dated 13.12.99. Further it is submitted that legal position was not considered while deciding Ex.U2. As per provisions of Sec.30(2) this Court can review order passed where interim relief is granted. However, it is necessary to show that there was mistake apparent on the face of record or any new fact has come to the knowledge. If it is submissions of

respondent that legal position was not considered then review is not maintainable. The alleged wrong order cannot be corrected by filing review application. After going through order Ex.U2 it is seen that submissions of parties were considered and thereafter only application was decided. Learned advocate for the respondent has relied on the decisions in the case of **Gurdeepsingh -Vs- State of J & K (1995 Suppl. I SCC 188)** and **State of U.P. -Vs- U.P. State Law Officers Association (1994 2 SCC 204)** Those decisions were not cited on behalf of respondent at the relevant time. Therefore on that ground order Ex.U2 cannot be reviewed. Application has no substance and liable to be rejected. Hence the order.

ORDER

Application Ex.C9 is rejected with costs.

Amravati

Dated : 06.02.2019

Sd/-

(M. M. Shaikh)

Judge,

Labour Court, Amravati.