

Complaint (ULP).32/2021

(CNR No.MHLC340001232021)

Jitendra Kumbhare -vs- Sindewahi Kharedi Vikri Sah.
Sanstha.

(ORDER BELOW EXH.C-8)

(Date :- 13.10.2022)

Instant application has filed by the respondents for review of order below (Exh.U-12) which is amendment application. It is submitted that in that application cause 4 was regarding adding of word “unwillingly after the date 18.01.2021. It is replied by respondent’s counsel by writing a small reply on the margin of application (U-12) itself. It said reply it was written clear that proposed amendment in clause 4 of (U-12) is strongly opposed as it takes away admission by complainant. Admission means ; that the resignation was submitted willingly. Now by adding word “unwillingly”, the complainant wants to take away the right accrued to respondent. Now by amendment complainant cannot be allowed to say that resignation was without his will. Because at the time of complaint he was aware of it. With full knowledge he wrote on oath. He kept it without word “unwillingly” means resignation was with his free will. Now he wants to take it away. This is illegal. It takes away right which is given to respondent by law. It causes prejudice. But it is allowed. It is clear that it is by bona fide mistake of Hon’ble Court due to bad handwriting and badly drafted application U-12. It is very difficult to understand U-12. It’s contents are confusing. Therefore this application is being

moved. It seems there is a mistake on the face of record. It needs to be corrected. Amendment causes serious prejudice to the respondents. As it is a serious mistake of whether complainant can be allowed to change his pleading in contrast to proviso to order 6 Rule 17 of CP Code. As amendment is applicable so proviso to 06 R 17 must also apply. Despite having full knowledge of how he submitted resignation, if complainant has not added word “unwillingly” at the time now how can he be allowed to change now after submission of written statement of respondent. It cannot be done. Hence, it is necessary to review the order passed on U-12. Lastly, prayed to allow the application.

02. The learned counsel of complainant has given say vide (Exh.U-14). It is submitted that the order passed by this Hon’ble Court on (Exh.U-12) is perfectly correct and proper and after due consideration of all documents file on record. The complainant in para 5 of the complaint specifically pleaded that the respondents continued mentally torture the complainant and hence the complainant had given his resignation. The para 6 of the complaint is also clear disclosing that the complainant threatened. As the the order is perfectly legal and correct and hence this application needs to be rejected.

03. It is further submitted that the respondent have proposed amendment its written statement and denied the contention of the complainant by adding special para after 5 in written statement. Lastly, prayed to reject the application.

04. Perused the application and say. Heard both the parties. By the present application, respondents are seeking review of the order passed by this Court on amendment application (Exh.U-12). It is the contention of the respondents that while passing the order on (Exh.U-12) this Court did not consider the reply of the respondents that the proposed amendment in clause of 4 of (Exh.U-12) is strongly opposed and it takes away admission by the complainant. The complainant strongly opposed this application and contended that there is no provision under MRTU & PULP Act for review of order passed on amendment application. Therefore, prayed to reject the application.

05. It is the legal position that the review of the order passed by the Court is permissible only if there is such a power is entrusted to the Court in act itself. The review of order passed on amendment application is not permissible under the MRTU & PULP Act. As there is no provision of review of its own order by the Court. On perusal of the provision of MRTU and PULP Act the special power of review has been entrusted to the Court in case of order passed under Section 30(2) under MRTU & PULP Act. No such a power is entrusted for any other order passed by the Court. Similarly, respondents wants to review the order passed on amendment application which is not admissible in the eye of law.

06. In view of the above discussion, I come to the conclusion the present review application is not maintainable

and there is no reason for this court to consider the review of the order which has been passed on amendment application (Exh.U-12) dated 23-06-2022 by this Court. Therefore, the respondents are not entitled to the relief as prayed in the application. Hence, I pass the following order.

ORDER

- 1) The review application - (Exh.U-8) is hereby rejected as not maintainable.

- 2) Matter to proceed further.

Chandrapur.
Date : 13/10/2022.

Sd/-
(Smt. R.V. Mete)
Judge,
Labour Court, Chandrapur.