

IN THE COURT OF JUDGE, LABOUR COURT, BHANDARA.
(Presided over by : F.K. Shaikh)

Complaint (ULPA) No. 22 of 2023
(CNR NO : MHLC 36-000148-2023)

Prashant Madame .. Vs .. Chief Executive Officer and others

ORDER BELOW EXHIBIT NO. U-2
(Passed on 12-01-2024)

This is an application filed by the complainant under section 30(2) of Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (herein after referred to as the “M.R.T.U. & P.U.L.P. Act”) to cease and desist the respondents and direct the respondents to reinstate the complainant till final disposal of the main complaint. Heard Shri. V.A. Bhojar learned counsel for the complainant and Shri. R.M. Bhusari learned counsel for the respondents.

2. The case of the complainant is that he was initially appointed as a ‘Water Quality Expert’ by the respondent no. 1 on 19-07-2014. The complainant was neither discharging his duty in the managerial capacity nor acting in the supervisory capacity. Thus, the complainant is a ‘workman’ within the meaning of Sec. 2(s) of the Industrial Disputes Act, 1947 (herein after referred to as the “I.D. Act”). The department of the respondents is industrial establishment which comes under the definition of ‘industry’ within the meaning of Sec. 2(j) of the I.D. Act. The department of the respondents are not having any specific service condition envisaged for employees engaged by them on periodic contract. There are no certified standing orders. The complainant was initially appointed vide order dt. 19-07-2014 for a specific period of 11 months on contract basis. The services of the

complainant was continued till 13-10-2023 by the respondents by giving artificial break of one day after completion of a period of 11 months. The complainant has performed his duty sincerely, faithfully and in the public interest. The complainant had rendered 9 years continuous service except artificial break of one day after a period of 11 months. There is no adverse remark against the complainant during his service. The whole tenure of service of the complainant was neat, clean and unblemished.

3. It is stated that there was a guideline of the State of Maharashtra for online tender for purchase of Chemical 'FTK' kit. The bidders were required to adopt online procedure on 'GEM' Portal. In the said online bidding procedure, some politically influential persons, members of the Zilla Parishad and the President of Zilla Parishad expected favour from the complainant. Since the complainant was assigned a duty to overlook the said online procedure on GEM Portal, he has ignored political pressure and followed his duty with loyalty.

4. It is stated that in the General Body Meeting of Zilla Parishad dt. 19-06-2023 one member of Zilla Parishad namely Mr. Yashwant Sonkusare had raised an irregularity in submission of tender of purchase regarding Chemical FTK kit. At the relevant time the President of Zilla Parishad has victimized the complainant by levelling allegations regarding character and irregularity in respect of tender for purchase of Chemical FTK kit. In the said General Body Meeting dt. 19-06-2023, the President of Zilla Parishad had issued a direction to terminate the contractual service of the complainant.

5. In view of the direction of the President of Zilla Parishad in the General Body Meeting dt. 19-06-2023, the respondents have issued

two show cause notices against the complainant dt. 08-08-2023 and 21-08-2023. The said show cause notices were issued to seek explanation in respect of loss of file of Jal Surakshak Suraksha Sanch of the 15th Finance Commission. The complainant has given proper explanation to the said show cause notices. Despite that the respondents without enquiry into the matter and without holding any domestic enquiry issued termination order dt. 13-10-2023 under the guise of non-renewal of contract of service.

6. The complainant has stated that termination was not a simple termination. The termination was based on the ground of dishonesty and loss of valuable file. It is stated that considering the charges levelled against the complainant, it was necessary for the respondents to carry out appropriate domestic enquiry. Undisputedly the order of termination was based without holding regular enquiry and given an opportunity of hearing to the appellant.

7. In view of this it is prayed that the respondents be directed to reinstate the complainant on his former post till the decision of the main complaint.

8. The respondents in their reply to this application at Exh. C-7 have contended that they have terminated the services of the complainant as per the condition of the contract. It is stated that the complainant has issued suicide letter dt. 15-08-2023 to the Collector, Bhandara mentioning therein names of the President of Zilla Parishad, members of Zilla Parishad and officers of the Zilla Parishad. The conduct of the complainant of issuing a suicide letter mentioning therein names of responsible persons of the Zilla Parishad was improper conduct. Therefore, the respondents have issued a show

cause notice dt. 21-08-2023 to the complainant. The complainant was appointed on the post of Water Quality Expert. The complainant has not performed his duty properly. There were too much irregularities in the work done by the complainant. The respondents were having undisputed right to terminate the services of the complainant in view of the contractual employment. The image of the respondents institution was tarnished because of the suicide letter of the complainant dt. 15-08-2023. In view of this it is prayed that the application be dismissed with costs.

9. On the basis of rival submissions of both the parties, following points arose for my determination and I have recorded the findings with reasons as under :

<u>Sr.No.</u>	<u>POINTS</u>	<u>FINDINGS</u>
1.	Does the complainant prove that there is strong prima facie case in his favour ?	: In the negative.
2.	Does the complainant prove the balance of convenience lies in his favour ?	: In the negative.
3.	Does the complainant prove that he will suffer irreparable loss, if the interim relief prayed is not granted ?	: In the negative.
4.	What order ?	: The application is rejected.

R E A S O N S

AS TO POINT NO. 1, 2 AND 3 :

10. The complainant was appointed on the contract basis for a period of 11 months. Therefore, it would be proper to look into the condition of the complainant's appointment order which is being filed at Exh. 3/9. In the complainant's appointment order there is a

condition no. 7 which states that after completion of a period of 11 months, the service stands terminated automatically. There is a condition no. 8 in the appointment order which states that extension of service period after a period of 11 months would be a discretion of the respondent no. 1. There is a condition no. 9 in the appointment order which states that any objectionable behaviour would lead to immediate termination of the services of the complainant.

11. It appears that the complainant was appointed lastly on the basis of contract of 11 months from 15-11-2022 to 14-10-2023. The respondent no. 1 has terminated the services of the complainant after a completion of contract on 14-10-2023 vide official order dt. 09-10-2023 at Exh. 3/1 as per condition no. 7 of the appointment order. There was no stigma attached mentioned in the termination order as alleged by the complainant. The respondent no. 1 has exercised his discretion to not to give extension of service to the complainant as per service condition no. 8 of the appointment order. Undisputedly, the complainant had issued a suicide letter dt. 15-08-2023 Exh. C-8/3 addressed to the Collector, Bhandara and mentioning therein names of the President of the Zilla Parishad, members of the Zilla Parishad and officers of the Zilla Parishad. The said conduct of the complainant was definitely objectionable as per service condition no. 9 of his appointment order.

12. Undisputedly, the complainant has moved this application under Sec. 30(2) of the MRTU & PULP Act. The said section is regarding passing an interim order to withdraw temporarily the unfair labour practice complained of pending final decision of the complaint. In this case the termination order was issued on 13-10-2023. Whereas

the complaint was filed on 08-11-2023. The respondents have already terminated services of the complainant before institution of this complaint. It would be extremely improper to reinstate the complainant on his previous post as prayed without going into the merits of the case. If the complainant is having strong case on merits, he can prove his case during full-fledge trial of this complaint and get the final relief in his favour. But, at this stage this Court is not inclined to pass interim order as prayed by the complainant.

13. In view of the discussion in earlier paragraphs, I found no prima facie case in favour of the complainant, no balance of convenience lies in favour of the complainant and no irreparable loss will be caused to the complainant, if the interim relief is not granted in his favour. Hence, I answer point nos. 1 to 3 in negative and proceed to pass the following order.

ORDER

- 1} Application Exhibit No. U-2 is hereby rejected.
- 2} Parties to bear their own costs.

B H A N D A R A.
Date : 12-01-2024.

(F.K. Shaikh)
Judge,
Labour Court, Bhandara.