

MANU/MH/0848/2010

Equivalent Citation: (2010)IILLJ806Bom

IN THE HIGH COURT OF BOMBAY

C.A.J. Letters Patent Appeal No. 28316/2009

Decided On: 29.01.2010

Appellants: **Cimco Birla Ltd.**

Vs.

Respondent: **Rowena Lewis**

Hon'ble Judges/Coram:

J.N. Patel, Ag. C.J. and B.R. Gavai, J.

Counsel:

For Appellant/Petitioner/Plaintiff: Ashok D. Shetty and Rita K. Joshi, Adv.

For Respondents/Defendant: S.C. Naidu and Santosh Shetty, Adv.

Case Note:

Labour and Industrial -Amendment- Rejecting the application for amendment of written statement under challenge in present appeal -Held, complaint filed by Respondent for implementation of order passed in earlier complaint - Issue before the learned Industrial Court in complaint was only with regard to the implementation of the order - Set aside by superior Court - Appeal dismissed.

JUDGMENT

1. Heard Mr. Ashok D. Shetty, the learned counsel appearing for the appellant and Mr. S.C. Naidu, the learned counsel appearing for the respondent.
2. The appellant challenges the order passed by the learned Single Judge dated June 15, 2009 thereby dismissing the petition filed by the present appellant challenging the order passed by the learned Industrial Court, Mumbai dated April 16,2007.
3. The learned counsel appearing for the appellant submits that the learned Industrial Court has erred in rejecting the application filed by the present appellant for grant of permission to amend the written statement and subsequently allowing the complaint. He further submitted that the learned Single Judge has also erred in rejecting the petition.
4. The record would reveal that there was series of litigations pending between the parties. The complaint in question was required to be filed by the respondent-employee for implementation of the order passed in complaint (ULP) No. 339/1987 wherein the complaint filed by the respondent was allowed thereby granting relief of reinstatement and full back wages and other consequential benefits. The learned Single Judge while dismissing the petition has found that the learned Industrial Court has given cogent and sound reasons for rejecting the application for amendment of written statement. It is concurrently found that though an opportunity was available for raising the plea at earlier stage, the application for amendment was sought to be made at the fag end of the complaint filed by the respondent for implementation of

the order passed in the earlier complaint. In any case, the issue before the learned Industrial Court in complaint (ULP) No. 588/1996 was only with regard to the implementation of the order dated March 25, 1996 in complaint (ULP) No. 339/1987 passed by the Labour Court.

5. When an order was passed by the learned Labour Court in Complaint (ULP) No. 339/1987 unless the same was set aside by the superior court, the appellants were bound to comply with the same. In that view of the matter, we do not find any error or illegality in the order passed by the learned Single Judge. Appeal is dismissed.

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