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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.1029/2011

- PETITIONERS :-
- 1) Zilla Parishad, Gadchiroli,
through its Chief Executive Officer,
Gadchiroli.
 - 2) District Health Officer,
Zilla Parishad, Gadchiroli.
 - 3) Medical Officer, Public Health Centre,
Wadadha, Tahsil Armori, District Gadchiroli.

...VERSUS...

RESPONDENT :- Smt.Chandramala w/o Fattu Khobragade,
Occupation service, resident of Deulgaon,
Tahsil Armori, District Gadchiroli.

Shri J. S. Mokadam, learned counsel for the petitioners.
Shri Harshal Bobde, learned counsel for the respondent.

CORAM : R. M. SAVANT J.

DATED : 16.06.2011

ORAL JUDGMENT

- 1) Rule with the consent of the parties made returnable forthwith and heard.
- 2) This petition filed under Articles 226 and 227 of The Constitution of India takes exception to the order dated 28th August, 2010 passed by the Industrial Court, Chandrapur in Complaint U.L.P No.26/2010, by which the

interim application filed by the respondent herein under Section 30 (2) of The M.R.T.U. And P.U.L.P. Act, 1971 came to be allowed and the order dated 15/02/2010 came to be stayed till disposal of the Complaint U.L.P No.26/2010 filed by the respondent.

3) The facts necessary to be cited for adjudication of the above petition are stated thus.

The petitioner is the Zilla Parishad, Gadchiroli and in so far as its Public Health Department is concerned, it is governed by the directions issued by the State Government, as regards the staffing pattern. The respondent herein was working as Health Worker at the Health Unit Deulgaon in Gadchiroli District. It appears that in view of the new staffing pattern, which was brought into force by the Government Resolution dated 06/08/2007, 32 posts including the post held by the respondent were abolished. In view of the abolition of the posts of the petitioners, the petitioners issued an order of absorption dated 30th May, 2008 absorbing the respondent No.1 at another place namely at Gumalkonda/Ankisa/Sironcha. This was done with a view that the services of the respondent might not come to an end. Similarly, the petitioners sought to accommodate the other employees working in the various health centres. The petitioners thereafter issued a relieving order dated 15/02/2010 through its Medical Officer of the concerned Medical Centre, relieving the respondent from the said Centre at Deulgaon so as to join the said Centre at Gumalkonda. Since the respondent refused to accept the relieving order, the same was sent by post, which she received on 26/06/2010. It appears that on receipt of the said

relieving order dated 15/02/2010 the respondent herein filed Complaint U.L.P No.26/2010 challenging the relieving order as an order of transfer invoking Items 3, 5 and 9 of Schedule IV of the M.R.T.U. & P.U.L.P Act, 1971.

4) It is pertinent to note that in the complaint as well as in paragraph No.15 of the interim application, the respondent specifically averred that she has been relieved, however, at the time of moving the said application before the Industrial Court on 10/03/2010, the respondent made a statement that she has not yet been relieved and that it was a mid-term transfer contrary to the rules. In the said circumstance, the Industrial Court granted an order of status quo, which has been confirmed by the impugned order dated 20/08/2010.

5) Having heard the learned counsel for the parties, in my view, the said order is unsustainable. It is pertinent to note that the Industrial Court was misled by the petitioner by stating that she has not been relieved and secondly the grant of status quo is tantamount to granting the final relief in the complaint. The Industrial Court ought to have seen that since the post of the respondent has already been abolished on account of the decision taken by the State Government, there was no question of continuing the respondent at the post from which she was relieved on its abolition. The Industrial Court further ought to have seen that the respondent was accommodated in another health centre at a different place in the same district. It is well settled by a catena of judgments of this Court as well as the Apex Court that the grant of interim relief should not amount to granting of final relief, without a trial. In that view of the

matter, the above petition is required to be allowed and is accordingly allowed.

The impugned order dated 28/08/2010 is set aside.

- 5) Rule is accordingly made absolute. The parties to bear their own costs.

- 6) The learned counsel for the petitioners states that the respondent has made a representation dated 14/01/2011 for being posted at some other place, if the said representation has not already been considered and disposed of, the petitioners herein are directed to consider the same sympathetically.

JUDGE

KHUNTE