

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

CIVIL WRIT PETITION NO. 6766 OF 2015

Mumbai Mahanagarpalika Karmachari
Mahasangh, Mumbai.

... Petitioner.

V/s.

Municipal Corporation of Greater Mumbai. ... Respondent.

Mr. Prakash Devdas a/w. Vidula Patil for the Petitioner.

Mr. A.V. Bukhari, Sr. Adv. a/w. Ms. Pallavi Thakar for the
Respondent – BMC.

CORAM : N.M. JAMDAR, J.

DATE : 31 AUGUST, 2015.

P.C. :-

By this Petition the Petitioner – Union challenges the order passed by the Industrial Court, Mumbai dated 1 August 2014 rejecting the application for interim relief filed by the Petitioner.

2. The Petitioner has filed a Complaint (ULP) No. 181 of 2014 seeking a direction to the Respondents not to implement or carry out alteration in the conditions of service in respect of benefits under Regulation No. 168 of the Bombay Municipal Corporation (service) Regulations 1989 and not to implement the

newly incorporated Regulations 169(4) of the Bombay Municipal Corporation (Service) Regulations 1989 and continue the earlier benefit without alteration.

3. The Regulations which are impugned in the complaint have already been brought in force by way of a resolution passed by the Respondent – Corporation on 3 July 2014. it needs to be kept in mind that if at this stage the relief prayed for by the Petitioner is granted, the complaint will stand allowed as it will amount to setting aside the regulations which are already brought in force.

4. The learned Counsel for the Petitioner submitted that the Respondents have brought about a change without following Section 9-A of the Industrial Disputes Act, 1947 which has affected the employees prejudicially. The learned Senior Counsel for the Respondent has disputed this charge submitting that it is a power of the Municipal Corporation to alter the service conditions as is conferred by the statute. However, the regulations have already brought in force and interim relief sought for will amount to final relief. But the position remains that large number of employees of the Corporation are agitating this cause, it will be appropriate if the Industrial Court gives priority to disposal of the complaint. This is particularly since the entire matter hinges only on a narrow legal issue as to whether service conditions have been prejudicially affected or not and whether Section 9-A of the Industrial Disputes

Act is applicable. The learned Counsel for the Petitioner submits that the Petitioner will co-operate with the Industrial Court for early disposal of the complaint and will only examine one witness. The learned Senior Counsel for the Respondent also submits that the Respondent will also co-operate with the early disposal of the complaint.

5. The learned Counsel for the Petitioner submits that the Respondent should not recover the amount which is already received by the members of the Petitioner – Union under the regulations till the complaint is pending. There is merit in this request. Accordingly, the Respondent – Corporation will not effect the recovery of any amount under the regulations in question, which already been given to the concerned workmen, till the disposal of the complaint.

6. It is made clear that the complaint will be heard on its own merits, and as it is clarified by the Industrial Court in the impugned order, the observations made by it, are prima-facie.

7. Accordingly, the Writ Petition is disposed off by directing the Industrial Court, Mumbai to give a priority to the hearing of the complaint, and make an endeavour to dispose off the complaint within the period of 6 months from today. This is on the assurance by the learned Counsel for the parties, as recorded above.

8. Registry to communicate this order to the Industrial Court, Mumbai, forthwith.

(N.M. JAMDAR, J.)

C E R T I F I C A T E

“ I certify that this Order uploaded is a true and correct copy of original signed order.”

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Uploaded on : 3/9/2015