

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1890 OF 2015
IN
WRIT PETITION NO.5063 OF 2012

Deepak D. Patil & Ors. Applicants
(Ori. respondents)

And In the matter between

City and Industrial Development Petitioner
Corporation (Maharashtra) Ltd.

Vs.

Deepak D. Patil & Ors. Respondents

Mr. A.V. Bukhari, Senior Counsel i/by Mr. A.K. Jalisatgi,
Advocate for the applicants.

Mr. G.S. Hegde alongwith Mr. C.M. Lokesh i/by Mr. G.S.
Hegde & Associates for the respondents.

Coram : Smt. R.P. SondurBaldota, J.

Date : 12th August, 2015

P.C.

1 This Civil Application by the original respondents is necessitated on account of the advertisement for recruitment issued by the original petitioner. On 18th June, 2015, the advertisement for filling up 78 posts of Firemen and

6 posts of Driver-Operator was issued. The applicants are 23 Firemen and 7 Driver-Operators appointed pursuant to the advertisement issued by the petitioner on 30th September, 2008. Their appointments were on temporary basis. They have, however, continued in the posts till date. By the order impugned in the petition, the petitioner is directed to give status of permanency to them and the benefits of permanency on completion of 240 days or from the date of filing of the complaint.

2 Mr. Bukhari, the learned Senior Counsel appearing for the applicants submits that in view of the direction contained in the impugned order and in view of the fact that by the interim order dtd.14th July, 2015, the services of the applicants are not to be disturbed during pendency of the petition, it is necessary that the petitioner is restrained from recruiting any fresh hands on the posts of Firemen and Driver-Operators without first absorbing the applicants on permanent basis. In the alternative, he submits that the petitioner be directed to absorb the applicants on the respective posts of Firemen and Driver-Operators. Mr. Hegde, the learned advocate for the petitioner submits per-contra that the appointment of the applicants was purely temporary. They had not completed the requisite continuous service of 240 days before seeking permanency by filing complaint under MRTU and PULP Act. Further the petition to challenge

the order of grant of permanency is already admitted. Therefore, the petitioner cannot be restrained from proceeding with the recruitment process for regular appointment to various posts.

3 Considering the fact that the order impugned in the petition directs the petitioner to grant permanency to the services of the respondents, and the fact that the applicants had undergone the process of same scrutiny at the time of their appointments in the year 2008 coupled with the interim order passed in the petition protecting their services, in my opinion, it is necessary that during pendency of the petition, the petitioner keeps the posts of Firemen and Driver-Operators vacant for the applicants. The balance of convenience would clearly be in favour of the petitioner as in the event the petitioner fails in the petition, there must be posts available for absorption of the applicants. The Civil Application is therefore disposed off with following directions:

The Petitioner-employer shall keep 23 posts of Firemen and 7 posts of Driver-Operators vacant till the disposal of the petition.

(Smt. R.P. SondurBaldota, J)