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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2923 OF 2014

Mantosh K. Singh & Ors.

.Petitioners

Vs.

Union of India & Ors.

..Respondents.

Mr. Rohit Gupta i/b P.S. Fadia for Petitioners.

Ms. S.I. Shah for Respondents.

**CORAM: B.R. GAVAI &
A.S. GADKARI, JJ.**

DATE : 19th March 2015.

P.C.:

1 Rule. Rule made returnable forthwith by consent of the parties.

2 The Petitioners have approached this Court being aggrieved by the office memorandums dated 6th June 2013 and 30th August 2013 to the extent it provide that the employees of the Union of India working in the Debt Recovery Tribunals (for short 'DRTs') and Debt Recovery Appellate Tribunal (for short 'DRATs') at Mumbai would not be entitled to get accommodation from the common pool residential accommodation of Union of India.

3 Undisputedly, prior to the impugned office memorandums, even the employees working in the DRTs and DRATs at Mumbai and Delhi were entitled for allotment of residential accommodation from common pool maintained by the Respondent No.1. Vide the impugned communication though the said facilities are continued insofar as the employees working at DRTs and DRATs at all other places except Mumbai and Delhi, it has been provided that the employees working at Mumbai and Delhi would not be entitled to the said facilities. The reason given in the communication is that there is no request for extension of the said facilities to the employees at Delhi and Mumbai.

4 Shri Gupta, the learned Counsel appearing for the Petitioners submits that the impugned office memorandum is patently discriminatory. He submits that when the employees of the DRTs and DRATs at Delhi and Mumbai are all working with the Union of India, they cannot be discriminated as against the employees of other Departments.

5 It is further submitted that meting out the discriminatory treatment to the employees of DRTs and DRATs situated at different places, is also violating the Article 14 of the Constitution of India.

6 Ms. Shah, the learned Counsel appearing for the Union of India submits that apart from the ground that there is no request for extension of the facilities to the employees of DRTs/DRATs at Delhi and Mumbai, it has been specifically stated in the affidavit that there is acute shortage of accommodation at Delhi and Mumbai and as such the said facilities is rightly not being made available to the employees of DRTs and DRATs at Mumbai and Delhi.

7 We will deal with the submission of Ms. Shah regarding acute shortage of accommodation at Delhi and Mumbai. Undisputedly, the impugned order refers only to not making request for extension of facilities at Delhi and Mumbai. There is no reference in the office memorandum with regard to acute shortage of accommodation at Mumbai and Delhi. The Apex Court in the case of ***Miohinder Singh Gil Vs. Union of India reported inn AIR 1978 SC 851*** observed that the parties cannot be permitted to improve their case in the affidavit, which is not reflected in the original order. In that view of the matter, the contention in that regard will have to be rejected.

8 With regard to the reasoning given in the impugned

memorandum that there is no request for extension of facilities is concerned, perusal of the communication dated 26th December 2013 addressed by the Under Secretary to the Government of India, Ministry of Finance and the communication dated 13th January 2014 addressed to the Chairman of the DRAT, Mumbai reveals that the request is already made in that regard by the competent authority. In that view of the matter, we find that this ground is also not now available.

9 Upon perusal of the office memorandum, we find it will be permitting discrimination amongst the employees of the Union of India working in different Departments. Undoubtedly the employees working in DRT/DRAT are the employees of Union of India. We further find that since the said facilities is being made available to the employees of the Union of India at all other places including the employees in DRT/DRAT, except DRT/DRAT at Mumbai and Delhi, it will be permitting discrimination between the employees working on the establishment of the DRTs and DRATs at Mumbai and Delhi as against the employees working at other outstations. In our considered view, this is totally in contravention of the spirit of Article 14 of the Constitution of India.

10 We find that the office memorandums which provide that the accommodation from the common pool of the Respondent No.1 would not be available to the employees working on the establishment of the DRTs and DRATs at Mumbai and Delhi, is not sustainable and therefore, the said office memorandums are liable to be quashed and set aside. In that view of the matter, that part of the impugned office memorandums dated 6th January 2013 and 30th August 2013 which provide that the accommodation from the common pool maintained by the Respondent No.1 would not be available to the employees of the DRTs and DRATs at Mumbai and Delhi is quashed and set aside.

11 It is held that the employees of the DRTs and DRATs at Mumbai and Delhi would also be entitled to allotment of accommodation from the common pool of the Respondent No.1 like other employees of the Union of India working at other places.

12 The Writ Petition is accordingly disposed of.

(A.S. GADKARI, J.)

(B.R. GAVAI, J.)

