

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

WRIT PETITION (ST) NO. 2486 OF 2016

Bombay Electric Workers Union. .. Petitioner

Vs.

The BEST Undertaking & ors. .. Respondents

Ms. Neeta Karnik for the Petitioner.

Ms.Kavita Anchan-Poojari i/b M.V.Kini & Co., for Respondents.

CORAM: N.M. JAMDAR, J.

DATED : 11 FEBRUARY 2016.

PC. :

Rule. Rule made returnable forthwith. Respondents waive service.

2. The Petitioner-Union is aggrieved by the direction given by the Industrial Court in the impugned order dated 18 November 2015 directing the Union to cooperate with the Respondent-undertaking in respect of decision to be taken pursuant to a notice of change issued by the Respondent-undertaking. The main grievance of the Petitioner is that the settlement arrived at between the Union and Respondent-undertaking is till 31 March 2016, and Respondent-undertaking cannot force a change till the

settlement is in existence.

3. Ms.Anchan-Poojari, the learned counsel for the Respondents on instructions states that the notice given is only for the purpose of discussion and no change will be brought about till the settlement is in force i.e. 31 March 2016. This statement on instruction is accepted.

4. An apprehension is expressed by Ms.Karnik, the learned counsel for the Union that such course of action will set up a precedent. Leaving all those issues open, in the facts of the present case, in view of the clear statement made by Respondent-undertaking that no service condition would be changed till the settlement is in force, it is not necessary to go into the larger controversy. If the Union wishes to participate in the discussion they can always do so putting forth their views in what terms the next settlement should be. Such preliminary talks between the Union and Respondent-undertaking will help in bringing about industrial peace.

5. In view of the above statements made by Respondent-undertaking, which are accepted, the impugned order passed by the Industrial Court wherein, it directs the parties to take a particular course of action will have to be modified, in light of what is set out above. The impugned order is substituted in terms of what is observed above, stressing the need to have a positive dialogue between the Union and the Respondent-undertaking, in regard to service conditions governing the workmen in future.

Since no change will take place till the existence of the present settlement, there is no need to prevent the parties from having further talks for the future course of action. Needless to state that if any decision is taken by the Municipal Corporation it will be open to the parties to contest the same on merits.

6. The writ petition is disposed of accordingly.

(N.M.JAMDAR, J.)