

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7155 OF 2016**

M/s. The Indian Hotels Co. Ltd.	..Petitioner
Vs.	
Mohd Rafique Mukhtar Shaikh	..Respondent

**WITH
WRIT PETITION NO. 7160 OF 2016**

M/s. The Indian Hotels Co. Ltd.	..Petitioner
Vs.	
Hemantkumar Pandurang Shenvi	..Respondent

**WITH
WRIT PETITION NO. 7161 OF 2016**

M/s. The Indian Hotels Co. Ltd.	..Petitioner
Vs.	
Vaibhav Vasant Thakur	..Respondent

**Mr. K. M. Naik Senior Advocate i/b Mr. A. K. Jalisatgi a/w Mr. Sujit Salkar
for the Petitioner in all the Petitions
Ms Ketki Rege for the Respondents in all the Petitions**

**CORAM : R. M. SAVANT, J.
DATE : 5th OCTOBER, 2016**

P.C.

1 The above Petitions raise a challenge to three identical orders all dated 18-3-2016 passed by the Learned Member of the Industrial Court, Mumbai. By the said orders, the application for interim relief being Exhibit U-2 filed by the Respondent in each of the above Petitions who are the original Complainants in the Complaint ULPs filed by them came to be allowed to the extent mentioned in the operative part of the impugned order. In the context

of the challenge raised, clause (1) of the operative part of the impugned orders which is identical in all the orders is reproduced herein under for the sake of ready reference :

“(1) Respondent No.1 Hotel is hereby directed to sent complainant to Guwahati either on deputation or transfer on rotation of two months in a calendar year till final disposal of this complaint.”

2 The controversy in the complaint is as regards whether the Petitioner herein as an employer is entitled to send on deputation / transfer the Respondent to each of the above Petitions to the other hotels owned by it. Though in the impugned order such a right has been recognised in the Petitioner having regard to the service condition applicable to each of the Respondents. The Learned Member of the Industrial Court has found fault with the Petitioner on the ground that the employees were though categorised as Bell Boy, Steward and Guest Service Attendant were in fact mazdoors and their transfer would create insurmountable difficulties for them. The order of deputation issued in respect of each of the Respondents postulates the deputation of the Respondents initially for a period of 6 months to Hotel Vivanta by Taj, Guwahati which hotel belongs to the Taj Group. The reason why the Learned Member of the Industrial Court has allowed the applications Exhibit U-2 to the extent mentioned in the impugned orders has been adverted to hereinabove. It seems that the Respondent in Writ Petition No.7155 of 2016 has already been brought back to Mumbai.

3 During the course of the hearing of the above Petitions, the Learned Senior Counsel Mr. K. M. Naik on instructions of Mr. Hemant Shinde Director Industrial Relations of the Taj Group, makes a statement that the Respondents in Writ Petition No.7160 of 2016 and Writ Petition No.7161 of 2016 would also be brought back to Mumbai within the outer limit of 15-1-2017. The said statement is made without prejudice to the rights and contentions of the Petitioner in the main complaint. In view of the said statement, it is not necessary to consider the impugned orders on merits as the said statement of the Learned Senior Counsel superimposes itself on the operative part of the impugned orders. The impugned orders are accordingly quashed and set aside and the statement of the Learned Senior Counsel Mr. Naik as recorded hereinabove would operate pending the Complaint.

4 With the aforesaid observations, the Writ Petitions are disposed of.

[R.M.SAVANT, J]