

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (ST) NO. 18 OF 2018

Nilesh Vasant Patil and Ors.

....Petitioners

V/s.

Union of India and Ors.

....Respondents

ALONGWITH

WRIT PETITION (ST) NO. 20 OF 2018

Chetan P. Choudhari and Ors.

....Petitioners

V/s.

Union of India and Ors.

....Respondents

ALONGWITH

WRIT PETITION (ST) NO. 21 OF 2018

Pravin A. Choudhari and Ors.

....Petitioners

V/s.

Union of India and Ors.

....Respondents

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Mr. S.V. Marne i/by. Mr. Vicky Nagrani, Advocate for the petitioners.

Ms. S.V. Bharucha a/w. Mr. A.R. Varma, Advocate for respondent no.1, Union of India.

CORAM :- SANDEEP K. SHINDE, J.
(VACATION JUDGE).

DATE :- 2ND JANUARY, 2018.

P.C. :-

1. Heard Mr. Marne, Learned Advocate appearing for the petitioners. Petitioners who are semi-skilled industrial employees at Ordinance Factory, Bhusawal were initially served with a termination notice on 19th September, 2015. Having realised the termination was not preceded by the show-cause notice, a separate show cause notices were issued on 19th September, 2015.

2. Thirty-eight industrial employees, who are the petitioners, had filed Original Application No. 536 of 2015 before the Central Administrative Tribunal, (CAT) Bombay Bench at Mumbai, inter-alia, challenging the show-cause notices.

3. On 22nd September, 2015 the Learned Member of the Tribunal was pleased to direct the respondents to maintain the status-quo orders so far as the posts of the

applicants is concerned till the next date of the hearing.

4. On 6th May, 2016 after hearing the applicants and the respondents, the order dated 22nd September, 2015 was confirmed, meaning thereby, the said order was to remain in force till the decision of O.A. No. 536 of 2015.

5. O.A. No. 536 of 2015 was heard by the CAT on 6th September, 2017 and the following order was passed :-

“13(a) In view of above, the applicants shall separately file a detailed reply to the impugned show-cause notice addressed to the Respondent no.3, within a period of three weeks from today.

(b). On receiving such representations, the Respondent no.3 shall consider and pass reasoned and speaking order thereon, in accordance with law within a period of four weeks.

(c). It is further directed that till a decision is taken by the Respondent no.3 on the additional reply to show cause notices/representations submitted by the applicants, the order regarding status-quo in respect of the present posts of the applicants shall continue.

(d) This protection is extended to the applicants for a further period of two weeks from the date when the order passed by Respondent no.3 on their representations is communicated to them so as to facilitate them to approach the appropriate forum in the event any adverse

order is prayed against them.

(e) The OA so far as it relates to Applicant nos.4, 8 and 39 stands dismissed since they have resigned.

(f) The OA so far as applicant no.9 is concerned stands abated for failing to bring his legal heir on record.

(g) The OA relating to other applicants stands disposed of with the above directions, without making any comments on merits of the claim.

(h) In the facts and circumstances of the case, the parties are, however, directed to bear their respective costs of this O.A.”

6. In terms of Clause-13(d), interim protection was extended for a period of 2 weeks from the date of communication of the order which was to be passed on the representation.

7. Vide communication dated 19th December, 2017 the petitioners representation was rejected. As such, in terms of order, Clause-13(d) the protection would come to an end on 3rd/4th January, 2018.

8. Aggrieved by the communication dated 19th December, 2017 the petitioners have filed O.A. No. 820 of

2017, the petitioners have also filed an application seeking extension of the interim reliefs. The said application was heard by the Tribunal and by order dated 1st January, 2018 refused to extend the interim relief which is in force till 3rd/4th January, 2018.

9. The Learned Member of the CAT, refused to extend the interim relief for non-availability of the respondents on the date of hearing. However, from the observations in para-9 of the order, it appears, the respondents were represented on 1st January, 2018.

10. Be that as it may, the fact remains there was interim protection in favour of the petitioners granted by the CAT on 22nd September, 2015 which was confirmed vide order dated 6th May, 2016 till the disposal of the Original Application No. 536 of 2015 on merit.

11. Admittedly, O.A. No. 536 of 2015 was not decided on merit but it appears, the parties were relegated to the remedy of making a representation; however until then, their services were protected.

12. In the given set of facts, the propriety demands the extension of the same protection to the petitioners since the grievance has not been heard on merits by the Tribunal.

13. In the given set of facts, as and by way of ad-interim relief, the implementation of the termination order dated 19th September, 2015 of each of the petitioners is thereby stayed till 6th February, 2018.

14. Since the petitioner's grievance dates back to September, 2015, the Learned Tribunal is requested to dispose off O.A. No. 820 of 2017 as expeditiously as possible and preferably within a period of 6 months from today.

15. The stay to the impugned termination order shall remain in force till 6th February, 2018 for the reasons that, while passing this order, the Learned Advocate for respondent no.1, for want of instructions could not address this Court as he was served with the notice at 12.30 p.m. today.

16. The Tribunal, is therefore requested to decide the application of the petitioners for the interim relief on its own merits after hearing the petitioner and the respondents.

17. With the aforesaid directions, all the three writ petitions are disposed off.

(SANDEEP K. SHINDE, J)