

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 3563 OF 2018
WITH**

WRIT PETITION NO. 3564 OF 2018

**KRANTISINGH KAMGAR SANGHTANA
VERSUS
CROMPTON GREAVES CONSUMER ELECTRICAL LIMITED**

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Advocate for the Petitioner :- Shri P. V. Barde
Advocate for the Respondent :- Shri Ashok V. Patil

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 15th FEBRUARY, 2019.

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PER COURT :

1. The first Writ Petition No. 3563/2018 is not on board. The learned Advocates for the respective sides made a request that both these petitions may be taken up together today. Hence, the first petition is taken on board.

2. I have heard the learned Advocate for the petitioner extensively in both these matters and the learned Advocate appearing on behalf of respondent No.1.

3. Despite service of court notice, respondent Nos. 2 and 3 have chosen to remain absent and have not entered an appearance in these proceedings.

4. I am not required to advert to the entire submissions of the learned Advocates on the issues from which these two petitions have emerged. Suffice it to say that this petitioner Union, which is espousing the cause of five workmen in Reference IDA No. 5/2017 and complaint (IDA) No. 39/2017, is aggrieved by the impugned orders passed by the Labour Court below Exhibit U-4 and Exhibit U-7 and below Exhibit U-2 and U-13 in these two petitions, respectively.

5. The order below Exhibit U-4 and Exhibit U-2 in both the proceedings pertains to the relief of seeking reinstatement during the pendency of the proceedings sought by the Union in favour of the five workmen. The learned Advocate for the petitioner submits, on instructions, that the petitioners are not seeking any order as against the orders passed on application Exhibit U-2 and U-4 and these petitions are not pressed to that extent.

6. *Insofar* as the documents sought for by these workmen under Exhibit U-7 and U-13 are concerned, it appears *prima facie* from the record that the five workers whose cause is espoused by the petitioner Union, are persons, who were working as computer operators in the material, finance, marketing and stores departments, except one, who was working as an Admn. Assistant. The case of the Management is that these five workers have been engaged through two different contractors, who are respondent Nos. 2 and 3. It is specifically denied that any of these five persons were engaged as apprentices. It is further canvassed that their provident fund contributions have been deposited with the P.F. Authorities by or through the contractor.

7. The record reveals that the documents with regard to K. N. Shaikh and D. S. Pawar that have been demanded, pertain to their employment as security guards with a different contractor. The two contractors through whom these five persons were inducted, are also added as first party second and first party third in the reference proceedings.

8. I find that the law has been crystallized in the **20th Century Fox Corporation (India) Pvt. Ltd. Vs. F. H. Lala and another [1975 Mh.L.J.273]** judgment, wherein relevance of documents and exclusivity of custody of documents has been dealt with.

9. In the instant case, if there are no documents to indicate that these five persons were ever inducted as apprentices or as security guards, the documents with regard to the two security guards and some of the apprentices need not be produced. It appears from Exhibit U-7 and U-13 that there is hardly any justification set out, *inasmuch* as, there are insufficient pleadings indicating as to how those documents would be relevant to the cause of action and the reliefs prayed for by the said Union for these five workers.

10. In the first petition, the union had also asked for the copy of the long term settlement dated 20/08/2015 signed by the Management with the Union representing the permanent workers. That request has also been turned down.

11. The learned Advocate for the Management submits that the documents pertaining to the registration of the contractor /license/permission etc. have been produced before the Court and documents pertaining to the tenure of the contractual employment of these five workers, will be produced either by the concerned contractor or by it, before commencing of the recording of oral evidence.

12. In view of the above, both these petitions need not be entertained and no interference is called for in the impugned orders to the extent of the documents pertaining to the security guards, apprentices etc.

13. However, since the Management makes a statement that the documents pertaining to these five contract employees would be produced before the Court if not already produced, it is expected that such documents will be produced before commencing the recording of oral evidence.

14. *Insofar* as the long term settlement between the Management and the Union representing the permanent

workers is concerned, there should not be any difficulty for the production of the said document in the event the issue of deciding the quantum of wages of these second party workers is to be considered on the principle of 'equal wages for equal work'. I, therefore, find that neither any prejudice would be caused to the Management, nor would cause any injustice to it if the copy of the long term settlement between the Management and the Union representing the permanent workers, dated 20/08/2015 is produced before the Court. It would assist the Labour Court to decide the issue of equal pay for equal work if that is to be finally adjudicated upon as an offshoot of the terms of reference made to the Court. The said copy of the settlement dated 20/08/2015 shall, therefore, be produced by the Management before the Labour Court within a period of four weeks from today.

15. With the above directions, both these petitions are disposed off.

(RAVINDRA V. GHUGE, J.)

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