

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISIDCTION

WRIT PETITION NO. 14654 OF 2018

Mr. Dewoo Ragho Pawar

.. Petitioner

Vs.

Municipal Corporation of Greater
Mumbai Thru Commissioner and Anr.

.. Respondent

Mr. Rajnikant R. Salvi for the Petitioner.

Mr. Vinod Mahadik for the Respondent.

CORAM : A.K. MENON, J.

DATED : 20th FEBRUARY, 2019.

P.C. :

1. The challenge in this writ petition is to an order dated 30th June, 2018 passed by the Industrial Court in Complaint (ULP) No 121 of 2015 alleging unfair labour practices under item nos. 5, 9 and 10 of Schedule IV of the MRTU and PULP Act, 1971.

The facts in brief are as follows

2. The original complainant and petitioner before this Court was working in the Storm Water Drainage department from 24th May, 1969. He admittedly retired on 1st April, 2004. He has since received provident fund and other emoluments but the respondents have withheld the amount of gratuity of Rs.2,00,000/- since he had not vacated the official service quarters

allotted to him. It appears that leave and licence agreement had been entered during the time when he was in employment. He continued to stay on even after expiry of the term of the licence. It was the case of the petitioner that several similarly placed service quarters have been allotted on lease or on rent. However, in his case this facility was not provided.

3. The impugned judgment found that there was no case for continuing the protection since he was not in employment and although there is some element of discrimination as former employees had been granted premises and continued payment of rent, in the instant case the petitioner may have been discriminated. However the finding does not amount to unfair labour practices. The petitioner is in arrears and that is how gratuity amount has been withheld. In the meantime petitioner has been in use and occupation of the service quarters which could have been occupied by some other employees ever since 2004.

4. The impugned order has considered all aspects and found that the policy of the Corporation under which other employees were allotted premises on rent has not been followed consistently in any event. The impugned order considers this fact and finds that no such policy was produced before the Court. It appears that the allotment, if any, of similar service quarters to other employers were purely on temporary basis. The petitioner has been in

occupation without payment of any rent for all these years despite having retired. In the circumstances, I see no reasons to interfere with the impugned order.

5. Writ Petition is dismissed. Ad-interim protection, if any, stands vacated.

(A.K. MENON,J.)