

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1613 OF 2020

Dr. Balabhai Nanavati Hospital	...	Petitioner
Versus		
Satish Gotad		
And Another	...	Respondents

.....
Mr. Ravindra V. Paranjpe for the Petitioner.
Ms. Usha Tiwari for Respondent Nos.1 and 2.

CORAM : S.C. GUPTE, J.

DATE : 17 FEBRUARY 2020

P.C. :

. Heard learned Counsel for the parties.

2 This writ petition challenges two orders passed by the Industrial Court in a complaint of unfair labour practice filed by the Respondents herein (original complainants). The first order, order dated 19 September 2019, was passed by the Industrial Court on an application of the Petitioner herein (original respondent no.1) for disposal of the complaint in view of two settlements (settlements dated 12 October 2013 and 16 February 2018). The application was on the footing that these settlements more or less redress the grievance of the complainants. The other order, order dated 30 November 2019, was passed by the Industrial Court on the complainants' application for interim relief under Section 30(2) of

Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. The application was for payment of salary and other benefits on the lines of other permanent employees of the Petitioner herein working on similar posts. The impugned order allowed this application.

3 The original complaint is still pending hearing and final disposal before the Industrial Court. The application, Exhibit C-13, on which the order of 19 September 2019 came to be passed, was for disposal on the basis of settlements between the Petitioner establishment and the representative union. This is really a matter of the Petitioner's defence to the complaint of unfair labour practice. It may well be considered by the Industrial Court at the hearing of the complaint. On the other hand, so far as the application for interim relief made by the complainants (Exhibit U-2) is concerned, it is an admitted position that names of both complainants find place in the list of employees to be made permanent in accordance with the two settlements referred to above. (The only controversy between the parties concerns the date, with effect from which the permanency of the two complainants should be recognized.) The Industrial Court has directed the Petitioner establishment to pay salary and other benefits to these two complainants prospectively on the lines of what is paid to other permanent employee of the Petitioner working on similar posts. The others, who have been made permanent, that is to say, those who were to be made permanent along with the complainants herein, are being paid salaries as permanent employees with effect from 1 May

2017. In that case, there is clearly a *prima facie* case for such payment to the complainants and no corresponding harm or prejudice to the Petitioner, if it is asked to pay salary and other benefits on the same lines to the complainants before the Industrial Court with effect from 1 May 2017 (as per settlement dated 16 February 2018); the complainants are anyway meant to get these benefits from 1 May 2017, if not earlier.

4 There is accordingly no merit in the writ petition. The writ petition is dismissed.

5 The aforesaid observations are made with a view to consider the Petitioner's case for admission of its challenge to the two impugned orders referred to above. These observations should not affect the merits of the controversy pending before the Industrial Court in the subject complaint. It is clarified accordingly.

(S.C. GUPTE, J.)

Rajesh V.
Chittewan

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