

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 54 OF 2017
IN
LETTERS PATENT APPEAL NO. 66 OF 2011
IN
WRIT PETITION NO. 8403 OF 2010

The General Secretary and Ors.

... Applicants

Versus

Maharashtra Industrial Development Corpn. & Ors.

... Respondents

Mr.Bennet D'costa a/w. Mr. J.Pandya for the Applicants.

Mr.Sudhir Talsania, Sr. Adv. a/w. Mr. Prashant Chavan, Mr. Madhukar Kalzunkar,
Ms.Shraddha Chheda i/b. Navdeep Vora and Associates for the Respondents.

CORAM : S.J.KATHAWALLA, &

R.I. CHAGLA, JJ.

DATE : 12TH MARCH, 2020

P.C. :

1. On 19th January, 2011, the learned Single Judge of this Court (Coram :
Smt. Nishita Mhatre, J.) has inter alia passed the following Order :

"1. Rule.

2. By way of interim relief the following order is passed:

*(i) The petitioner will implement the award with respect to the
benefits of permanency inasmuch as the payscale and
consequential benefits as awarded by the Industrial Tribunal
must be paid to the workmen concerned in the Reference, from
the date of the award i.e. from 23.7.2010.*

(ii) The benefits which have been awarded from the date of the demand notice i.e. from 20.3.2007 till 22.7.2010 shall be deposited in this Court within eight weeks from today.

(iii) Once this amount is deposited, it shall be invested in a nationalised bank initially for a period of three years, to be renewed thereafter.

(iv) The direction to grant permanency to the workmen is stayed pending the Writ Petition.

(v) In case the Petitioner advertises for posts of Pump Operators, Helpers, Clerks, Fitter Inspectors and Fitters, the workmen concerned in the Reference may apply for those posts without prejudice to their rights and contentions in this petition. Their applications will be considered by the Petitioner irrespective of the age limit prescribed for the particular post.

(vi) Any outsiders who may be appointed to the posts, if advertised, shall be informed that their appointment is subject to the result of this petition.”

2. The above Letters Patent Appeal No. 66 of 2011 was preferred therefrom by the Respondents, which Appeal is admitted. Civil Application No. 87 of 2011 taken out in the above Appeal is disposed off by this Court (Coram : P.B.Majmudar and A.A. Sayed, JJ.) on 21st June, 2011 by recording that “.....*Considering the facts and circumstances of the case, we are of the opinion that since the concerned employees are serving since more than 8 to 15 years, as the case may be, it would be just, proper and equitable to direct the appellant Corporation to pay them the pay scale given to the other regular*

employees as the employees are doing the same work. Said benefit of regular pay scale is to given with effect from 01.06.2011. The appellant Corporation shall continue to pay such pay-scales till the appeal is finally decided and subject to further orders in this behalf. Rest of the order of the learned Single Judge regarding giving consequential benefits as well as depositing the amount in Court as per paragraph 2 (ii) is stayed.....”

3. The learned Advocate appearing for the Applicants (Original Respondents) has now taken out Civil Application (L) No. 54 of 2017 seeking direction against the Respondents (Original Petitioners) to pay house rent allowance at the rate of 5% of basic and DA to the concerned workmen and annual leave with wages as per the Factories Act, 1948 from their date of joining.

4. The learned Advocate appearing for the Applicants (Original Respondents) submits that the order passed by the Division Bench of this Court dated 21st June, 2011 in Civil Application No. 87 of 2011 should be construed to mean that the benefit of regular pay scale to be given to the workers as per the order, would also include the benefits which are sought by the Applicants (Original Respondents) in Civil Application (L) No. 54 of 2017. The interpretation given by the learned Advocate appearing for the Applicants (Original Respondents) is opposed by the learned Senior Advocate appearing for the Respondents (Original Petitioners).

5. The Applicants (Original Respondents) have moved this Court for the reliefs in Civil Application (L) No. 54 of 2017 more than six years after the order was passed by this Court i.e. on 21st June, 2011. We are therefore not inclined to grant any

reliefs in the Civil Application (L) No. 54 of 2017 at this stage. However, the hearing of the above Appeal is expedited and peremptorily fixed for hearing and final disposal on 22nd July, 2020. We also grant liberty to the Applicants (Original Respondents) to move the Division Bench of this Court, headed by Justice A.A. Sayed, who is party to the Order dated 21st June, 2011, seeking necessary clarification with regard to the said order, after taking necessary approval from the learned Chief Justice.

6. Civil Application (L) No. 54 of 2017 is accordingly disposed off.

(R.I. CHAGLA, J.)

(S.J.KATHAWALLA, J.)