

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

RAJESH VASANT CHITTEWAN
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Date: 2021.12.24 12:26:18 +0530

WRIT PETITION NO.9111 OF 2021

All India Spice Jet Staff and
Employees Association ... Petitioner
Versus
Union of India
And Others ... Respondents

Mr. Jaiprakash Sawant for the Petitioner.
Mr. Ashok Shetty a/w Naveena Kumari and Raju Mondal for
Respondent No.1-Union of India.
Mr. Mahesh Shukla a/w Mr. Niraj Prajapati for Respondent Nos.2
and 3.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 23 DECEMBER, 2021

P. C. :

. On claiming an extreme urgency, the petition was circulated before this court and the following order was passed by us on 17 December 2021, which reads thus :

“ . Heard the learned counsel for the Petitioner.

2. The learned counsel for the Petitioner circulated the petition claiming an extreme urgency. It was submitted before this Court that the issue was referred to conciliation officer and by communication dated 17/11/2021, the failure of conciliation report is submitted. The learned counsel then submitted that

the petition is filed on 25/11/2021 with a principal prayer to direct Respondent No. 1 to immediately make reference of industrial dispute in view of the failure of the conciliation report dated 17/11/2021 for adjudication to the Central Government of Industrial Tribunal, Mumbai and other ancillary relief was also claimed. Post filing of the petition, certain events occurred namely the dispute was referred to the competent authority for adjudication that is Central Government Industrial Tribunal cum Labour Court No. 1, Mumbai and order to that effect was passed on 07/12/2021. The learned counsel orally prayed for placing on record the copy of the order dated 07/12/2021.

3. It is the next submission of the learned counsel for the Petitioner that though the dispute is referred to Central Government Industrial Tribunal, Mumbai, the tribunal is not functional on account of non-availability of the chairperson of the tribunal. The learned counsel who is appearing for Respondent Nos. 2 and 3, who has been instructed to appear on behalf of Respondent Nos. 2 and 3 submits that the statement about non-functional tribunal, it is not the fact that there is no remedy available to the Petitioner.

4. It is submitted that the circular sitting of the tribunal takes place on periodical basis as such Petitioner is not left remedy less. This is being only limited issue we called upon the Respondent No. 1 to make a statement before this Court as to whether the tribunal that is Central Government Industrial Tribunal, Mumbai is available for hearing the matters on a periodical basis or on the basis of circular sitting.

5. On this limited issue, we adjourn the petition seeking the response from Respondent No. 1 to 22/12/2021
6. Learned counsel for the Petitioner to serve notice on Respondent No. 1 today itself with the copy of order of this Court.
7. Post the petition for further consideration on 22/12/2021.
8. All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.”

2 In response to the order of this court, certain documents are placed before this court for perusal, the same are taken on record and marked as ‘X’ Collectively. It was brought to the notice of this court that references are being heard by the two presiding officers, namely, Central Government Industrial Tribunal-cum-Labour Court No.1 and Central Government Industrial Tribunal-cum-Labour Court No.2, Mumbai. As the post of Presiding Officer of Central Government Industrial Tribunal-cum-Labour Court was vacant due to retirement of the presiding officer, but the alternate arrangements are made. There is a notification issue in the month of April 2021 itself and its reads that :

“No.A-11016/02/2019/CLS-II The President is pleased to extend the additional charge of the post of Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court No.2, Mumbai entrusted to Shri Shyam Sunder Garg, Presiding Officer, Central Government Industrial Tribunal-

cum-Labour Court, Nagpur for a further period of six months with effect from 19.04.2021, or till the regular appointment to the post, or until further orders, whichever is the earliest.”

On 21 October 2021, the second notification is issued and it reads thus :

“No.A-11016/02/2020/CLS-II The President is pleased to extend the additional charge of the post of Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court No.2, Mumbai entrusted to Shri Shyam Sunder Garg, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Nagpur for a further period with effect from 19.10.2021 to 19.01.2022, or till the regular appointment to the post, or until further orders, whichever is the earliest.”

3 The conjoint reading of both these notifications show that the alternate arrangement was already made in the month of April 2021 and it is continued till 19 January 2022 and care is taken by stating in the notification that the additional charge is entrusted to Shri Shyam Sunder Garg, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Nagpur for a further period with effect from 19.10.2021 to 19.01.2022, or till the regular appointment to the post, or until further orders, whichever is the earliest. Thus, the concern expressed by this court of availability of the forum to the parties is duly taken care of.

4 Resultantly, the Petitioner can certainly now approach to the

forum available for hearing references which is already made in the present matter.

5 Considering all these facts, there is no reason to keep the petition pending before this court and we deem it fit to dispose of the petition, with liberty to the Petitioner to approach the concerned officer, who has been entrusted with the charge. We also further make it clear that officer is now available at Nagpur and parties may face some difficulty, so also Counsel also may face some difficulty. Considering the prevailing situation, Office of Central Government Industrial Tribunal-cum-Labour Court, Nagpur to explore possibility of making available the virtual platform of hearing to the parties, so also to the learned Counsel appearing for the parties. If such, exercise is undertaken, the parties shall be made aware of the availability of such platform.

6 With these observations, we the petition is disposed of.

7 As reference was initially filed befo9re the Central Government Industrial Tribunal-cum-Labour Court No.1, now the alternate arrangements are made, Central Government Industrial Tribunal-cum-Labour Court Room No.2, shall not decline to entertain the reference filed by the Petitioner, which was initially filed in Central Government Industrial Tribunal-cum-Labour Court No.1.

8 Mr. Ashok Shetty, learned Counsel waives notice for Respondent No.1-Union of India.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)