

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1 REVIEW APPLICATION (CIVIL) NO. 84 OF 2022 IN WP/2098/2015

ANANT NARHARI SONAR
VERSUS
MAHARASHTRA STATE ELECTRICITY BOARD
THROUGH ITS CHIEF ENGINEER, GENERATION

WITH
1 REVIEW APPLICATION (CIVIL) NO. 85 OF 2022 IN WP/2097/2015

SUDHIR KAMALKAR AYACHIT
VERSUS
MAHARASHTRA STATE ELECTRICITY
BOARD THERMAL POWER STATION

...
Advocate for Applicants : Mr. T.K. Prabhakaran h/f. Mr. Ashutosh S. Kulkarni
Advocate for the respondent no. 1 : Mr. V.J. Dixit, Senior Advocate
i/b. Mr. A.M. Gaikwad
...

CORAM : MANGESH S. PATIL, J.

DATE : 30 SEPTEMBER 2022

PC :

Heard learned advocate Mr. Prabhakaran h/f. Mr. Kulkarni for the review applicants and learned Senior advocate Mr. Dixit for the respondent.

2. By way of these applications, the original respondents from the writ petitions are praying for recalling / reviewing the final common judgment and order passed by this Court in their two separate writ petitions whereby the petitions were allowed and the common judgment and order passed by the Industrial Court allowing their

complaints filed under section 28(1) of the Maharashtra Recognition of Trade Unions and Unfair Labour Practices, 1971 (MRTU and PULP Act) were allowed inter alia directing conferment of benefits of permanency with consequential monetary relief.

3. Learned advocate Prabhakaran would vehemently submit that the writ petitions were not finally argued and still the judgment was pronounced. He would submit that only the fact that the applicants – employees would not press for regularization was conceded to and since the issue regarding power of the Industrial / Labour Court to direct regularization was referred to the larger bench of the Supreme Court in view of the order passed in Civil Appeal No. 1878 of 2016 (*Oil and Natural Gas Corporation Vs. Krishan Gopal & Ors.*) dated 07-02-2020, learned senior advocate Dixit had not advanced any argument and still this Court has proceeded to decide the petition finally by the common judgment and order under review.

4. He would submit that even after the issue regarding regularization was conceded to, it was always open for the applicants – employees to pray for equal pay for equal work. The judgment and order has been passed without extending opportunity of being heard to the applicants and is violative of the principles of natural justice.

5. He would also submit that the respondents – original petitioner has not controverted the stand in the review petitions, by

filing any affidavit in reply and must be held to have accepted the position as to what had really transpired before this Court.

6. Mr. Dixit would strenuously oppose the applications. He would submit that it is surprising that in spite of the matter having been heard and reserved for judgment, which fact is admitted by the applicants also, the applicants are taking about turn and raising the issue. This Court has elaborately considered the matter on merits after hearing both the sides and has passed the judgment after it was reserved which is indicative of the fact that even the applicants were waiting for the judgment. He would submit that there is no formal defect or error and the judgment has been passed after extending opportunity of being heard.

7. It is indeed surprising that in spite of the petitions having, admittedly, been reserved for judgment, which is indicative of the fact that the arguments were heard finally and the judgment was to be pronounced after some days, the applicants are raising such an issue. If at all the matter was to be simply adjourned in view of the reference made by the Supreme Court to the larger bench and on a concession given by the applicants, there would not have been any reason for this Court to reserve the matter for passing the judgment as is indicative from the *Farad* notings. One would wonder if the applicants would have come with the same stand had this Court allowed the writ

petitions. It is clearly an afterthought, to come out with such a stand and try to make capital out of a matter touching the happenings before the Court in open.

8. When this Court after hearing both the sides had reserved the petitions for passing judgment and has passed the judgment, a party cannot be permitted to rake up any issue touching the actual hearing of the final arguments. If the matter was reserved for judgment even without hearing the applicants, they would not have kept mum and waited for the judgment to be pronounced.

9. In my considered view, the very ground being raised by the applicants undermines the authority of the Court and is bordering contempt. The applications are liable to be dismissed with exemplary costs but I am desisting from doing so.

10. Be that as it may, there are no sufficient and cogent grounds which would enable this Court to undertake a review.

11. The review applications are rejected.

[MANGESH S. PATIL]
JUDGE

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