

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2686 OF 2019

CROMPTON GREAVES LTD EMPLOYEES UNION BAJAJ NAGAR
VERSUS
M/s CROMPTON GREAVES LTD WALUJ AURANGABAD

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Advocate for the Petitioner : Shri T.K. Prabhakaran h/f Shri Suwarnkar
Nitin S.

Advocate for the Respondent : Shri Marlapalle Yugant R.

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CORAM: SMT. BHARATI H. DANGRE, J.

DATE :- 08th February, 2022

Per Court:

1. Heard the learned counsel for the petitioner and the respondent.
2. The impugned order passed by the Industrial Tribunal in Reference (IT) No.6/2009 delivered on 19.07.2018 below Exhibit U-10 is the subject matter of the petition.
3. To give a brief background, it is to be noted that Reference (IT) No.6/2009 came to be lodged through the statement of claim where, the relief was sought by the petitioner/ President, Crompton Greaves Employees' Union and it's Secretary, to declare that the contract for employment of the concerned employees in the factory to carry out manufacturing work under the camouflage of house keeping and cleaning

between the employer and name-lenders, be held to be sham, bogus and fraudulent. By prayer clause B, the relief was sought that the concerned workmen named in Annexure-A be declared to be the direct workmen of the Employer and be classified as permanent under the Model Standing Orders.

4. Perusal of the statement of claim would disclose that the petitioner Union, second party, has claimed itself to be a trade union registered under the Trade Unions Act, 1926 and is formed exclusively for the workmen of the first party/ respondent herein. It is specifically pleaded that all those 42 persons named in Annexure-A are its members, who are concerned with this reference and the concerned workmen are working in the factory and they claimed to have been recruited after following due process of law.

5. In this reference, an application came to be filed by the first party, with reference to the claim of the workmen where, the statement is made to the effect that there is not a single workman on the muster roll of the company, who is classified as permanent, temporary or casual and all others are junior officers, senior officers and executives as managerial staff, but not a single workman is shown on the roll of the company. The employer also raised an objection that there is no industrial dispute for want of employer-employee relationship. Hence, by the application filed in the reference, the request is made by the claimants to the first party to

produce the following documents :-

- (i) Muster Roll of all the workmen including the concerned workmen for the year of 1992-2011;
- (ii) Wage-Register of all the workmen, including the concerned workmen for the year 1992-2011; and,
- (iii) Production records/ reports of the workmen for the year 1992-2011.

It is also pleaded that these documents are necessary to prove the employer-employee relationship.

6. This application has been turned down on the ground that the material dispute is in respect of the contract with the first party Nos.2 and 3. It is recorded that the evidence of the second party as well as first party Nos.2 and 3 is complete. The witness of the first party has filed the affidavit and the matter is scheduled for cross-examination. At this stage, it is pleaded that they require the documents before evidence of the second party is led. This request is turned down in the backdrop of the submission made by the employer to the effect that old record is destroyed and not available with the company and that the other party has not shown relevancy of the said documents. Since the second party wants to show that there is not a single workman on the muster roll, who is classified as a permanent, temporary or casual, the learned Judge has recorded that even if the documents are produced, they are not relevant to

decide the dispute between the parties.

7. I do not think that the said reasoning of the learned Judge justify the rejection of the application. But, since the contesting party has stated that there are no such documents available, since the record has been destroyed and not available with the company, the learned Judge ought not to have commented upon the relevancy of documents, particularly when the second party took the specific stand to the effect that there is not a single workman on the muster roll of the company, who is classified as permanent, temporary or casual. The respective parties ought to have been left to themselves to make the said statement good and if the record is not available, is the ground, which is stated by the company, the learned Judge has erred in rejecting the application by rendering the finding that these documents are of no relevance.

8. Though I am satisfied with the end result of the application, the findings rendered by the learned Judge that the documents are not relevant to decide the dispute between the parties, need not come in the way of the parties while evidence is adduced to prove the said pleadings or when the matter is being argued with the said plea. With the aforesaid clarification, the impugned order is upheld and the Writ Petition is dismissed.