

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7673 OF 2003
WITH
INTERIM APPLICATION NO.404 OF 2022

Tukaram Tanaji Mandhare & Ors. .. Petitioners
Versus
Raymond Woollen Mills Ltd. & Ors. .. Respondents

WITH
WRIT PETITION NO.9449 OF 2003

Maruti Tukaram Yadav .. Petitioner
Versus
Raymond Woollen Mills Ltd. & Ors. .. Respondents

WITH
WRIT PETITION NO.1204 OF 2003

Tukaram Tanaji Mandhare & Anr. .. Petitioners
Versus
Raymond Woollen Mills Ltd. & Ors. .. Respondents

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Mr.Yogendra Pendse for the Petitioners.
Ms.Meena H. Doshi for the Respondent No.3.

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CORAM: RAVINDRA V. GHUGE, J.
DATED : 01st FEBRUARY, 2022

P.C:-

1. I have considered the submissions of the learned counsel for the respective sides. With their assistance, I have perused the judgment delivered by the learned Full Bench of this Court dated 06/06/2005 in these petitions. I have also perused the order passed by the Hon'ble Supreme Court dated 17/07/2019 (Three Judges' Bench) in Civil Appeal No.5077 of 2006 in the matter of *Raymond Limited & Anr. Vs. Tukaram Tanaji Mandhare & Anr. Etc.*

2. Since the Hon'ble Apex Court has held that the conclusions of the learned Full Bench in paragraph 19 of the judgment dated 06/06/2005 lay down the correct position in law, the learned Advocates representing the Management and the Workers submit that these petitions may be disposed off with a direction to the Industrial Court to decide the pending ULP complaints in the light of paragraph 19.

3. Paragraph 19 of the learned Full Bench judgment reads as under :-

“19. The position, therefore, is that a person who is employed through a contractor who undertakes contracts for execution of any of the whole of the work or any part of the work which is ordinarily work of the undertaking governed by BIR Act is an employee within the meaning of section 3(5) of the MRTU and PULP Act and a complaint of such an employee is maintainable

though no direct relationship of employer employee exists between him and the principal employer. However, if there is a dispute as to whether the contract workers were doing the work which forms part of the undertaking then the workers will have to get the dispute decided independently under the provisions of the BIR Act before approaching the Industrial Court under the MRTU and PULP Act.”

4. Shri Pendse, the learned Advocate submits that the two ULP complaints bearing Nos.589 of 1997 and 667 of 1997 were filed by the two employees apprehending termination, before the Labour Court. They were granted status-quo and protected by this Court in 2004. Such protection continues for almost 18 to 20 years and the same may be continued till the two ULP complaints, pending before the Industrial Court, could be decided in the light of the paragraph 19 reproduced above.

5. The learned Advocate for the Management, though agrees for the disposal of the two complaints before the Labour Court, submits that status-quo need not be continued as there is no work available to be offered to these two employees.

6. In view of the above, these three petitions are disposed off with the following directions :-

(a) The Labour Court at Thane would pass a formal order of disposing off Complaint (ULP) Nos.589 of 1997 and 667 of 1997.

(b) The status-quo that was in favour of these workers, would be notionally continued, till disposal of the cases pending before the Industrial Court.

(c) Complaint (ULP) Nos. 694 of 1997 and 631 of 2000 are restored to the file of the Industrial Court, Thane, by consent as recorded above.

(d) The litigating parties before this Court agree to appear before the Industrial Court in Complaint (ULP) Nos.694 of 1997 and 631 of 2000, at 11.00 a.m. on 04/03/2022.

(e) Pursuant to such appearance, no formal notice is required to be issued by the Industrial Court.

(f) Both the parties are at liberty to proceed with the above stated two cases from the stage at which they were disposed off, meaning thereby that if the Management has not filed it's written statement in the matters, the same shall be done on or before 31/03/2022.

(g) Thereafter, the Industrial Court would proceed to decide the complaints in accordance with the procedure laid down in law.

(h) As the learned Advocate for the workers has made a request with regard to an amendment, it would be appropriate to leave the parties at liberty to address the Industrial Court in the event of any party being desirous of seeking an amendment.

(i) Taking into account the period of more than two

decades that have passed by, the Industrial Court, Thane would give highest priority to these two ULP complaints for an expeditious adjudication, in any case on or before 21/10/2022.

(j) All the litigating parties would fully co-operate with the Industrial Court which would be at liberty to refuse the adjournments, if are sought on trivial grounds, alternatively impose costs for such adjournments.

(k) All the contentions of the litigating parties in the light of paragraph 19 of the judgment of the learned Full Bench, are left open.

7. In view of the disposal of the writ petitions, pending interim applications stand disposed off.

8. Rule is discharged in all these petitions.

(RAVINDRA V. GHUGE, J.)