

Urmila Ingale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7999 OF 2021**

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Workmen of Hindustan Aeronautics
Limited, Nashik Division .. Petitioner
Vs.
Hindustan Aeronautics Limited and anr. .. Respondents

Mr. Yogendra Pendse a/w Mr. Mahendra Agavekar, for
Petitioner.
Mr. Arsh Misra i/b M.V. Kini & Co., for Respondents.

**CORAM : DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE : MARCH 2, 2022

P.C. :

1. The prayer in this writ petition dated November 15, 2021 reads as follows:

"a) Issue a Writ of Mandamus or any other writ, order or direction to quash and set aside the communication issued by the 2nd respondent dated 27.10.2021 (Annexure-A)

b) Issue a Writ of Mandamus or any other writ, order or direction directing the respondent to ensure the continuance of medical facilities and medical benefits to the workmen and their dependents including parents as has been the practice and the procedure of the respondent, without making any changes adversely affecting the workmen"

2. The notice dated October 27, 2021 referred to in prayer (a) is Exhibit 'A' to the writ petition reading as follows :

"Notice of Change of Service Condition for amending the HAL Medical Rules

Name and Address of the Employer :

Hindustan Aeronautics Limited
Aircraft Division Nasik
HAL Ojhar Township P.O
Tal- Niphad, Dist - Nashik 422 207

Dated this the 27th day of October 2021

In accordance with Section 9A of the Industrial Dispute Act 1947, we hereby give notice to all concerned that it is our intention to effect the change specified in the Annexure (enclosed), on the expiry of 21 days from the issuance of this notice (i.e. w.e.f. 18.11.2021) in the conditions of service applicable to Workmen in respect of the matters specified in the Forth Schedule to the said act."

3. We are informed by Mr. Misra, learned advocate for the respondent no. 1-employer that a similarly worded notice as the notice dated October 27, 2021 was the subject matter of the challenge in a writ petition before the Orissa High Court by a Union of employees of the respondent no.1. By an order dated November 17, 2021, the Court refused to entertain the writ petition and relegated the petitioning Union to the forum available under the Industrial Disputes Act, 1947 (hereafter "the Act", for short). It is also the contention of Mr. Misra that an industrial dispute was raised by the employees of the respondent no.1, who are posted at Bangalore, through their Association. Conciliation

proceedings which were initiated having failed, the dispute between the employer and the employees has since been referred by the Government of India, Ministry of Labour & Employment to the Central Government Industrial Tribunal-cum-Labour Court, Bangalore (hereafter "the Tribunal", for short) by letter dated January 31, 2022 for answering the following question:

"Whether the action of the management of HAL, Bangalore in modifying the medical policy as raised by Hindustan Aeronautics Employees Association (HAEA) vide letter dated 15.11.2021 is proper, legal and justified? if not, what relief(s) the disputant workers is entitled to?"

4. Since the dispute has been referred to the Tribunal, we decline interference. The writ petition stands disposed of. No costs.

5. This order, however, shall not preclude the petitioning Union, representing the employees of the respondent no. 1 who are posted at Nashik, to explore their remedy under the Act or to join the proceedings before the Tribunal, if permissible in law. All contentions are left open.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)