

sg

68.wp10634-23.doc

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10634 OF 2023

All India Defence Employees Federation And Ors... Petitioners
v/s.

Union of India Thr. The Secretary Ministry
of Defence And Anr. .. Respondents

....

Mr. Rajeev N. Kumar, a/w. Mr. Amey Kanse, for the Petitioners.

Mr. A.R. Gole, for the Respondents.

Mr. V.A. Nagrani, for Intervenor.

....

CORAM: NITIN JAMDAR &
M.M.SATHAYE, JJ.

DATE : 02 JANUARY 2024.

P.C:-

The Petitioner Federation has sought a direction to implement the memorandum/communication issued by the Under Secretary, Ministry of Defence, Government of India, dated 20 January 2023 and also for prayers not to prevent Chargemen from participating in Trade Union activities and other ancillary reliefs.

2. It is not in dispute that the Petitioners had filed Writ Petition No.2494 of 2022 for the same reliefs, which came to be

disposed of by the Division Bench (S.V. Gangapurwala, ACJ and Sandeep V. Marne, J.) dated 27 April 2023, as under:

- “1. We have heard the learned Counsel for the Respondents.*
- 2. The learned Counsel for the Petitioners submits that one part of the grievance of the Petitioners stands redressed in view of the letter dated 20.01.2023. However, the other grievance with regard to the participation in the trade union activities is not resolved by the Respondents. For the said purpose, it is not disputed that the Petitioners have a remedy before the Central Government Industrial Tribunal.*
- 3. The Petitioners may approach the said authority.*
- 4. In that event, all contention of the parties are kept open.*
- 5. Writ Petition stands disposed of. No costs.*
- 6. Interim Application also stands disposed of.”*

3. When the present writ petition came up on board before the Division Bench on 5 December 2023, following order came to be passed:

- “1. The learned counsel for the petitioners to satisfy the Court as regards the maintainability of the writ petition in the light of the order dated 27th April 2023 passed in the earlier writ petition filed by the same petitioners.*
- 2. Stand over to 2nd January 2024.”*

4. Learned Counsel for the Respondents contend that the Petitioners in light of the order dated 27 April 2023, which has attained finality, cannot file another petition for the same relief. Learned Counsel for the Petitioners sought to contend that though it is correct that such statement was made regarding grievance of the Petitioners being redressed, the same was made under a mistaken

impression. If this is to be accepted, this would amount to substantially modifying the order dated 27 April 2023, which specifically records the statement of the Petitioners.

5. We do not deem it appropriate as a matter of judicial propriety to pass an order which will amount to review of the order dated 27 April 2023. In light thereof, we dispose of the writ petition leaving it open to the Petitioners to take appropriate steps in case the Petitioners intend to apply for review of the order dated 27 April 2023.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)