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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

INTERIM APPLICATION NO.7911 OF 2024

IN

WRIT PETITION NO.5416 of 2024

Sagar Narayan Ahire & Ors. ... Applicants

In the matter between

Ganesh Trambak Patole & Ors. ... Petitioners

V/s.

Union of India & Ors. ... Respondents

WITH

WRIT PETITION NO.5416 of 2024

Ganesh Trambak Patole & Ors. ... Petitioners

V/s.

Union of India & Ors. ... Respondents

Mr. Anil Anturkar, Sr. Advocate i/by Mr. Shubham H. Misar,
for Petitioners.

Mr. R. R. Shetty for Respondents.

Mr. Kiran Bapat, Sr. Advocate with Mr. Prashant D. Patil for
Intervenors/Applicants in IA.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
AMIT BORKAR, J.**

DATED : AUGUST 1, 2024

P.C.:

INTERIM APPLICATION NO.7911 OF 2024

1. Having regard to the nature of the averments made in the application, we find it appropriate to permit impleadment of the applicants. Accordingly, the application is allowed in terms of prayer clause 10(c).

2. Necessary amendment shall be incorporated by the learned counsel for the petitioners during the course of the day.

3. Re-verification is dispensed with.

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4. Since the entire pleadings put-forth by the parties before the Central Administrative Tribunal (Tribunal) are on record, we feel that matter can proceed without any further affidavit to be filed by the parties.

5. Mr. Bapat, learned senior counsel for the newly added parties/respondent Nos.5 to 15 agrees that the matter may be proceeded for final disposal.

6. Heard Mr. Anturkar, learned senior counsel representing the petitioners, Mr. Shetty, learned counsel representing respondent Nos.1 to 4 and Mr. Bapat, learned senior counsel representing newly added respondent Nos.5 to 15 and perused the record available before us on the writ petition.

7. This petition seeks indulgence of this Court in exercise of its jurisdiction under Article 226 of the Constitution of India with the prayer to quash the impugned order dated 27th September 2023 passed by the Central Administrative Tribunal (Tribunal) in Original Application No.247 of 2019, whereby the application moved by the respondent No.5 to 15 has been allowed and they have been permitted to intervene and made party-respondents before the Tribunal.

8. It has been argued by Mr. Anturkar that in the facts of the case the respondent Nos.5 to 15 are neither necessary nor proper parties before the Tribunal and as such the impugned order is not sustainable. He has further drawn our attention to the impugned order passed by the Tribunal whereby it has been observed that the petitioners did not file any objection to the application moved by the private respondents seeking their impleadment, and has stated that this is factually incorrect.

9. The submission of the learned counsel for the petitioners is that in any case, since the subject matter of consideration before the Tribunal is termination of services of the petitioners as such, it is a matter between the petitioners and their employers, i.e., respondent No.1 to 4 and interveners could not have any interest therein. According to the learned senior counsel for the petitioners the impugned order is, thus, liable to be quashed.

10. Mr. Shetty, learned counsel representing respondent Nos.1 to 4 also states that in the facts of the case private respondent Nos.5 to 15 are neither necessary nor proper parties in the proceedings pending before the Tribunal, and hence; the order impugned in this petition is liable to be set aside.

11. Mr. Bapat, learned senior counsel representing private respondent Nos.5 to 15 initially attempted to assert that these respondents are necessary parties to the proceedings pending before the Tribunal for the reason that it is against the

vacancies which occurred on termination of services of the petitioners, the private respondents have been selected and as such they have sufficient interest in the proceedings before the Tribunal.

12. However, our attention has been drawn to the fact that the respondent Nos.5 to 15 were not even complainants of the complaint on the basis of which the initial inquiry was held by the respondent Nos.1 to 4, which led to issuing show-cause notice to the petitioners and ultimately termination of their services. It has been stated by the learned senior counsel for the petitioners that in terms of the order dated 21st March 2023 passed by this Court in Writ Petition No.485 of 2021 and connected petitions, the interim order has been extended till final decision of the original application pending before the Tribunal as such respondent Nos.5 to 15 are not necessary parties.

13. On consideration of the submissions made by the learned counsel representing for the respective parties, we are unable to find ourselves in agreement with the submission made by the learned senior counsel representing private respondent Nos.5 to 15. In the order dated 21st March 2023 passed by this Court in Writ Petition No.485 of 2021 and in connected matters, it is observed that on 6th October 2021 this Court had passed an interim order, whereby the respondent Nos.1 to 4 were given liberty to carry forward the fresh selection process and to take the same to its logical conclusion; however, it was further provided that orders of appointment shall not be issued to the selected candidates

without obtaining the leave of this Court.

14. Accordingly, we have been informed that respondent Nos.1 to 4 have not moved this Court seeking leave for going ahead with making the appointments on the basis of selection subsequently held, in which, respondent Nos.5 to 15 are said to have been selected. There is nothing on record to suggest that the private respondent Nos.5 to 15 have moved this Court seeking any modification of the order dated 21st March 2023. Merely, because the interim order granted on 6th October 2021 has been extended by this Court by means of order dated 21st March 2023 till final disposal of the original applications, it will not entitle the private respondents to seek intervention or impleadment in the proceedings pending before the Tribunal for the reason that the subject matter before the Tribunal is between the petitioners whose services were terminated and their employer i.e. respondent Nos.1 to 4. Even otherwise it is settled principle of law that mere selection does not create any vested right to be appointed. Further, appointment of respondent Nos.5 to 15 is dependent on the outcome of the original applications pending before the Tribunal for the reasons that the subsequent selection was held to fill up vacancies which were caused on account of termination of such services of the petitioners.

15. Thus, in our opinion, unless the matter relating to termination of services of the petitioners is finalized by the Tribunal, respondent Nos.5 to 15 cannot be said to have any locus in the matter.

16. The writ petition, thus, deserves to be allowed. Accordingly, the impugned order dated 27th September 2023 passed by the Tribunal, which is challenged herein, is hereby quashed.

17. We may observe that the initial selection of the petitioners was made pursuant to the selection process initiated in the year 2016 and on account of the intervening developments, the posts are still lying vacant and as such we deem it appropriate to direct the Tribunal to expedite the hearing of all original applications which are pending before it and conclude the same at the earliest.

18. We have been informed that the pleadings in the pending original applications are complete and the matters are at the stage of final hearing.

19. Thus, we direct that the Tribunal shall conclude hearing of the original applications pending before it and decide the same at the earliest, say, within a period of six weeks from the date certified copy of this order is produced before it.

20. The writ petition stands disposed of in above terms.

21. There shall be no order as to costs.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)