

Resumed on S.A.**Further cross-examination on behalf of first party by Advocate Shri. B.D. Birjadar:-**

76) I know the provisions for time bound promotion. I say that I received twice time bound promotion in the year 2009 and 2017. I further say that after completion of 12 years services, employee becomes entitled to get time bound promotion. I say that I became permanent in 1997 and thereafter after completion of 12 years, I got time bound promotion. It is correct to say that since 1994 though I was in the employment after completion of 12 years, time bound promotion was granted in the year 2009. Even though time bound promotion granted belated, I had not challenged at the relevant time. It is correct to say that when I was granted permanency in the year 1997 I had not challenged before the appropriate forum. It is correct to say that considering the date of permanency, I was granted correctly first time bound promotion in the year 2009. It is correct to say that after getting the second time bound promotion, we have not raised any grievance in writing to the management. I say that the next promotion of staff nurse is Sister Incharge. It is correct to say that for granting the promotion on the post of Sister Incharge, seniority list is required to be maintained of the concerned cadre every year. It is correct to say that seniority list of staff nurse was also published in the year 1997 and it is published every year thereafter. It is correct to say that I have never challenged the seniority list published by the management every year till date.

77) It is correct to say that when I joined the employment in the year 1994, at that time, no advertisement was published in the newspaper. It is correct to say that I have no knowledge regarding

other nurses concerned in the present reference, whether with regard to their appointments, there was advertisement published in the newspaper. I say that I have no documentary evidence to show that I have submitted any application for employment to the first party. Witness volunteers that we are students of nursing school of BMC at the relevant time, we were appointed directly. It is correct to say that I have no knowledge in respect of other staff nurse, whether they have submitted any application to BMC for employment. It is correct to say that I have no knowledge whether other staff nurse concerning this reference were students of nursing school of BMC. It is correct to say that first party BMC never issued any letter contending that to come and join on duty. It is correct to say that no notice was published on notice board in the year 1994. Witness volunteers that she received direct call letter. It is correct to say that I have not filed copy of call letter and appointment letter in this reference. It is correct to say that initially I was appointed on adhoc basis. I never protested for adhoc appointed or claimed probationary or permanent employee of BMC.

78) It is correct to say that first party BMC having its own recruitment rules. It is correct to say that the reservation policy is applicable to first party. It is correct to say that as per recruitment rules, considering the reservation policy, I was not appointed. Witness volunteers that I was directly appointed. It is correct to say that other staff nurses involved in the present reference, are also not appointed as per recruitment process and reservation policy.

79) Now I am shown my affidavit in chief at Exh.U-47 para no. 8. I say that the contents in para no. 8 are in the context of adhoc

appointment to permanency. I say that none of the unions functioning in the first party have taken any initiative on our questions of permanency, therefore, in that context contentions are taken in para no. 8 of my affidavit in chief. At the relevant time I was the member of other union, we raised grievance before union time to time, but no initiative was taken by the concerned union, however, we have not authorized to it to file case before the appropriate forum.

Q. Why such authority was not given to raise a dispute to those union at relevant time?

A. We have not given any written complaint, but we have given oral authority to that concerned union.

80) It is correct to say that after completion of 5-6 years of service, I have not raised any grievance regarding permanency either before the court or labour commissioner's office.

81) I say that I have gone through the charter of demands submitted by the second party union. It is correct to say that second party union regarding fixation of wages, two cases were filed by the second party union bearing (ULP)No.328/2011 and 411/2011. I do not know prior to the present reference, second party union filed two complaints for fixation of wages and both were dismissed by the Industrial Court. Now I do not remember whether at the time of raising the present dispute, the second party union intimated to me in respect of prior two complaints were filed regarding fixation of wages and they were dismissed by the Industrial Court. I never inquired regarding pendency of any cases in the Industrial Court and outcome of those cases.

Ref.(IT)No.14/2017

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Exh.U-47
Sumati Maruti Chaskar

82) I know myself and other 459 employees filed complaint being Compln.(ULP)No.381/2015 before this court against fixation of wages and wage rise. It is correct to say that during the pendency of Complaint (ULP)No.381/2015, we raised dispute and that was referred to this tribunal for adjudication being Ref.(IT)No.14/2017 i.e. present reference. It is correct to say that we have not given any authority to second party union to withdraw Compln.(ULP)No.381/2015 from the Industrial Court at Mumbai.

As per request of first party, further cross-examination is deferred till next date.

R.O.A.C.

Date: 19.06.2024

(M. R. Kumbhar)
Member
Industrial Court, Mumbai.

ams/-