

Resumed on S.A.

56) My name is Gracy Melwyn Qudors, aged 59 years, residing at Dahisar, Mumbai. I have filed my examination in chief by way of affidavit at Exh.U-9. Contents therein are true and correct. It bears my signature. I have nothing to say more besides my examination in chief by way of affidavit filed at Exh.U-9.

Further examination in chief on behalf of second party by Advocate Smt. Vidula Patil:-

57) Now I am shown list of documents at Exh.U-5. At sr. no. 1 is a copy of memorandum of understanding dated 2.3.2009 (page no. 2 to 8). The said documents is admitted by first party, therefore, it is exhibited as Exh.U-12. At sr. no. 2 is copy of agreement dated 19.9.2011 (page no. 9 to 26). On behalf of first party the said documents is admitted which is at Exh.U-13. Now I am shown document at sr. no. 3 are the copies of pay slips (page no. 27 to 34) for the month September 2018, July 2018 and April 2020. They are at Exh.U-14 colly. At sr. no. 4 is copy of payment slip for the month of April 2005 (page no. 35) which is at Exh.U-15. At sr. no. 5 is statement showing arrears paid to nurses (page no. 36) which is at Article-A. Document at sr. no. 6 is copy of statement of details of concerned nurses in the reference (page no. 37 to 39) which is at Article-B.

58) Now I am shown list of documents at Exh.U-11. Document at sr. no. 1 to 8 are part of conciliation proceeding.

Cross-examination on behalf of first party by Advocate Shri. B.D. Birjadar:-

59) I say that since 2015 I am the member of second party union. Prior to that I was the member of MNS. I was the member of Maharashtra Navnirman Sena. It is correct to say that various unions represent the staff nurses working at corporation. It is correct to say that second party union namely Mahapalika Aarogya Seva Karmachari Sanghatana, Mumbai is not affiliated to any federation. Now I am shown document at Exh.U-12 and U-13 are the copies of memorandum of understanding dated 2.3.2009 and copy of agreement dated 19.9.2011. I say that I am not aware regarding signing of agreement. I say that I have not read the copy of memorandum of understanding and copy of agreement which is filed on record at Exh.U-12 and U-13.

60) It is correct to say that prior to present one, second party sanghatana filed complaint bearing (ULP)No. 381/2015. It is correct to say that the said case before the same court. It is correct to say that in the said complaint, I myself and sanghatana raised same demand regarding fixation of sixth pay commission to staff nurses. I say that the said case still pending before the court. The said case is pending before this court. I say that I never attended the said matter. (On behalf of second party Smt. Vidula Patil submitted that the said case was withdrawn.) I say that I am not aware regarding withdrawal of said case by the union.

61) Now I am shown copy of memorandum of understanding dated 2.3.2009 and copy of agreement dated 19.9.2011. I have knowledge regarding signing of agreement prior to filing my affidavit in chief. I say that leader of our union namely Shri. Prakash Devdas. I

say that both the agreements bear signature of Mr. Prakash Devdas. I have knowledge in respect of Mumbai Mahanagar Palika Karyalayeen Karmachari Sanghatana and Mumbai Mahanagar Palika Karmachari Mahasangh. I have no knowledge whether union namely Mumbai Mahanagar Palika Karyalayeen Karmachari Sanghatana and Mumbai Mahanagar Palika Karmachari Mahasangh have filed complaint regarding sixth pay commission. I say that the union leader namely Shri. Prakash Devdas or my Advocate Smt. Vidula Patil have not intimated regarding filing the case before the present one. I say that I was never intimated by Shri. Prakash Devdas regarding complaint (ULP)No.418/2011 and 328/2011 regarding pay fixation was filed and said complaint were dismissed last year.

62) It is correct to say that I received payment a per the terms and conditions of agreement dated 19.9.2011 and now I am retired. I have to check whether remaining all staff nurses were paid their salaries as per the agreement dated 19.9.2011. It is correct to say that I have not taken instructions or discussion with other staff nurses whether they were getting salaries as per agreement dated 19.9.2011 or otherwise before filing affidavit in chief at Exh.U-9. It is not correct to say that now I say that I without taking instructions from the staff nurses, I have filed the present affidavit in chief before this court. Now I am shown list of documents Exh.C-14. At sr. no. 1 is the copy of pay fixation dated 30.09.2011 (page no. 1 to 25). Now I am shown page no. 16. It is correct to say that as per the notional fixation in the fifth P.C. scale, staff nurses were paid as per the agreement dated 19.9.2011 as well as sixth pay commission with effect from 1.1.2006. It is correct to say that as per the said scale, my self and other staff

nurses were paid scales accordingly. It is correct to say that till my retirement, I was getting pay scales including increments etc. etc. It is not correct to say that after signing the agreement and fixing the pay scale of staff nurses we have not made any complaint. (Witness volunteers that we have made complaints in the year 2010, 2013). It is correct to say that the implementation of sixth pay commission is started since 2011 with retrospective effect from 1.1.2006. It is correct to say that I have not filed any copy on record to show that we have made complaint in the year 2010 and 2013 regarding fixation of pay scale. It is correct to say that we have not made any grievance or complaint in respect of agreement signed on 19.9.2011 and circular issued on 30.9.2011 to the management. (Witness volunteers that we have made grievance in the present reference).

63) I have no knowledge the fixation of sixth pay commission was by Central Govt. I say that I have no knowledge in respect of fixation of pay scale of staff nurses by the Central Govt. It is correct to say that I have no knowledge in respect of fixation of pay scale to the staff nurses by the State Govt. I have to produce document in support of our contention regarding difference is pay scale of staff nurses or State, Central Govt. with comparison to our payment. It is correct to say that as per sixth pay commission I was fixed payment of Rs.9,300-34800- plus grade pay Rs.4,200/-. It is correct to say that besides this payscale I was getting various dearness allowances, however, I am unable to tell exact rate of dearness allowance. It is correct to say that other allowances were paid as per the agreement dated 19.9.2011. I have no any documentary proof regarding fixation of payscale of the staff nurses.

64) It is correct to say that at the time of fixing sixth pay commission, it was taken notional fixation in fifth pay commission. It is correct to say that before fixing sixth pay commission, we were not paid wages as per fifth pay commission. It is correct to say that for the first time it is decided in the year 2011 as per agreement to extend benefits of sixth pay commission to the staff nurses. It is not correct to say that as per the agreement in the year 2011 and circular issued thereafter, the fixation was made correctly. It is correct to say that fixation of pay correctly made Rs.9,330-34,800/- plus grade pay Rs.4,200/- fixed correctly. I have to study in respect of pay scale fixed for Govt., then I am able to answer the question asked in cross-examination.

Cross-examination is deferred till next date.

R.O.A.C.

Date : 28.07.2022

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

ams/-