

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

44) I say that after 1996 first party raised charter of demands for wage rise in general in the year 2000. I further say that some of the nurses were the members of second party union in the year 2000. It is correct to say that the present reference is the first dispute raised by the second party in respect of nurses for their terms and conditions of service. Witness volunteers that after getting the maximum membership of the nurses to the second party union, then raised the dispute for regularization. Now I am shown agreement dated 19.09.2011. It is correct to say that the demands in respect of nurses are included therein. It is not correct to say that till the present reference, there is no grievance of nurses against the first party regarding regularization. It is correct to say that there is no written communication with the first party regarding grievances of nurses in respect of regularization in the employment. Now I am shown para no. 7 of my affidavit in chief. I am aware in respect of anomalist committee. I say that I have gone through the anomaly committee report in the year 2012-2013. It is not correct to say that second party has not challenged the report of anomalist committee. Now I am unable to tell the exact case number which is filed in the court. I say that I have personally participated in the said complaint. I further say that the said complaint was disposed of. It is correct to say that the report of anomaly committee is not set aside by the court till date. Now I am unable to remember whether the anomaly committee deals with clubbing of nurses. It is not correct to say that clubbing was

done the basis of anomaly committee report. It is correct to say that after 2011 clubbing of nurses took place.

45) Now I am shown list of documents at Exh.C-14 sr. no. 2 (page no. 26 to 103) is the copy of fixation dated 16.05.2012. It is correct to say that at page no. 28 is the circular dated 16.05.2012 which was issued after the submission of anomaly committee report which is at Exh.C-18. It is correct to say that circular dated 16.05.2012 was not challenged by the second party and it was not set aside by the court. I further say that the category of nurses is not included in the circular. Second party union challenged in respect of pharmacists, however, till date it is not set aside. Now I am shown document at sr. no. 3 (page no. 104 to 144) is the copy of pay fixation dated 17.06.2014. Now I am shown page no. 105 is the copy of circular dated 17.06.2014. It is correct to say that as per the recommendation of anomaly committee, the said circular was issued which is at Exh.C-19. It is correct to say that circular dated 17.06.2014 (Exh.C-19) is not set aside by the court. It is correct to say that C(ULP)No.328/2011 and C(ULP)No.418/2011 were dismissed by Industrial Court, Mumbai. It is correct to say that the judgment and order passed in C(ULP)No.328/2011 and C(ULP)No.418/2011 was not set aside by Hon'ble High Court. I say that C(ULP)No.418/2011 was filed Mumbai Mahanagar Palika Karmachari Mahasangh. I say that in our federation includes 6 to 7 unions. It is correct to say that the federation is run by Shri. Prakash Devdas, Advocate. It is correct to say that second party union namely Mahapalika Aargoya Seva Karmachari Sanghatana, Mumbai is also part of federation. It is

correct to say that in C(ULP)No.328/2011 and C(ULP)No.418/2011 the issue involved in respect of fixation of wages. Witness volunteers that the issue of nurses was not involved in the said complaint. It is correct to say that C(ULP)No.418/2011 was filed in respect of all unions. I say that issue of nurses was not involved in the said case. It is correct to say that I have filed C(ULP)No.381/2015 before this court. Now I am shown document at sr. no. 5 (page no. 170 to 173) is the copy of Industrial Court order dated 08.07.2019 in C(ULP)No. 381/2015 which is at Exh.C-20. It is correct to say that the C(ULP)No. 381/2015 was filed in respect of grievances of nurses only. After confronting prayer clause in C(ULP)No.381/2015- It is correct to say that the prayers made in C(ULP)No.381/2015 and prayers in the present reference are one and the same. It is correct to say that during pendency of the present reference, the said complaint was withdrawn by first party. It is correct to say that the C(ULP)No.381/2015 is filed on behalf of 460 nurses. The said complaint was filed jointly and they were complainant in that case. I say that the present employees involved in present reference were not involved in C(ULP)No.381/2015. It is correct to say that the C(ULP)No. 381/2015 was withdrawn. I have to check whether the withdrawal pursis signed by individual complainant or Advocate. I further say that I myself is the Advocate on behalf of complainant in C(ULP)No.381/2015. Now I am shown page no. 170 of Exh.C-20. It is correct to say that the withdrawal pursis is signed by me on behalf of the complainants. I say that though I deposed these employees are not covered in complaint, however, their grievances are still not settled. I say that due to

reference forwarded to tribunal for its adjudication, the said complaint was withdrawn by the complainants. I have to check the names of concerned employees in Ref(IT)No.14/2017 and the names of concerned employees of 460 in C(ULP)No.381/2015 are one and the same. I again say that I am not sure the concerned employees involved in Ref(IT)No.14/2017 and 460 employees in C(ULP)No.381/2015 are the same. I say that at the time of withdrawal of C(ULP)No.381/2015, the concerned employees (460) are not members of second party union at the time of withdrawal of complaint. It is not correct to say that at the time of withdrawal of the complaint (ULP)No.381/2015, the concerned employees, are not members of second party union, nor they authorized me for withdrawal of the complaint. I say that before withdrawal of the complaint, I had meeting with the concerned employees. I again say I had meeting with the representative of concerned employees.

46) Now I am shown application at Exh.U-18. It is correct to say that the application is signed by me. Now I am shown reference order Exh.O-1 dated 25.04.2017.-- I say that along with reference order there is list of 159 employees. I say that this in respect of only demand no. 1. I say that for demand no. 2 and 3 is in respect of staff nurses and demand no. 4 and 5 are in respect of all nursing staff. It is correct to say that in respect of other employees i.e. in respect of demand no. 2 to 5, there is no list annexed along with reference order. I say that demand is raised by the union in respect of all nurses. Now I am unable to tell the exact number of nurses involved in the present

reference. It is not correct to say that as other employees are not members of union, therefore, no list is annexed along with reference order in respect of demand no. 2 to 5. I say that before this court application at Exh.U-18 was filed in respect of making party to the other unions in respect of their members. Now, their members means? The present employees concerned in the reference. Now I am unable to tell the exact number of members to the other unions and exact number of members in the present reference. It is correct to say that at the time of filing application at Exh.U-18, I have no knowledge regarding membership of Municipal Nursing and Paramedical Staff Union, Municipal Kamgar Karmachari Sena and any other unions. I say that unions getting subscription every year on the basis of check off list thereafter the subscription of employees whose not received to the second party, then they are not members of second party or they are members of other unions. I say that I have checked check off list of other unions in respect of membership. I say that I have list of said check off list.

Q. Can you give the details of members of your union and other unions as per check off system?

A. Now I am unable to tell the number of members of unions.

I have to check the check off list and if available I am ready to produce on record.

At this stage, for production of documents, if available, as per request, cross is deferred till next date.

R.O.A.C.

Date : 04.07.2023

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