

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

47) Today I have filing the membership of second party union and who have left the second party union for the period 2017 and 2023. Now, I am shown para no.6 in affidavit in chief. I say that only 15 members are members of that union mentioned in para no.6. I say that second party has documentary evidence to show only 15 members where member on that complaint in Com (ULP) 278/2011. It is correct to say that there is no finding of Industrial Court in respect of only 15 members of that union. It is correct to say that neither second party union nor the federation was a party in that complaint. Now, I am shown para no.9 in my affidavit in chief. It is correct to say that as mentioned in para no.9 in respect of notification for implementation of 5<sup>th</sup> pay commission and dates are not mentioned in the settlement signed on 19.02.2011. It is correct to say that at the time of signing the settlement I have knowledge of 5<sup>th</sup> pay commission and its notification. I know that 5<sup>th</sup> pay commission notification dtd.10.12.1998 and notification dtd.22.04.2009 for 6<sup>th</sup> pay commission. It is not correct to say that 5<sup>th</sup> pay commission is not made applicable to employees of MCGM. I say that MCGM signed an agreement with Doctors union in respect of doctors who are the member of second party union Mahapalika Aarogya Seva Karmachari Sanghtana. I am ready to produce the copy of agreement signed in respect of implementation of 5<sup>th</sup> pay commission for the category of doctor or employee. It is correct to say that the 5<sup>th</sup> pay commission was not made applicable to the staff nurses.

48) Now, I am shown reference order at Exh.O-1 and O-2 dtd.25.04.2017. It is not correct to say that for the implementation of notification of 5<sup>th</sup> pay commission on 10.12.1998 and 6<sup>th</sup> pay commission notification dtd.22.04.2009 we have not raised dispute therefore the said demand was not referred for adjudication to this tribunal.

49) Now, I am shown para no.12 in affidavit in chief. It is correct to say that demand in respect of only staff nurses (demand no.2 and 3) for the year 01.01.1996. It is not correct to say that demand in respect of sister in charge is beyond the scope of reference. It is correct to say that agreement dtd.19.09.2011 signed without keeping any reservation as full and final settlement of staff nurses. Now, I am shown the copy of agreement (Exh.U-13 pg no.17) dtd.19.09.2011. The clause no.2 is the respect of teachers and nursing staff. It is correct to say that as per clause no.2 (pg no.17) is mentioned in respect of as per state government employees and not as per central government employee. Now, I am shown pg no.15 of said agreement. At clause no.1 it is agreed and mentioned that the pay band and grade pay of the Municipal Employees shall be made applicable as shown in Annexure-I and shall not be less than if employees in state government. I say that MCGM has not provided Annexure-I alongwith agreement MCGM has not provided the copy therefore Annexure-I not produced before the court. I say that till date no copy of Annexure-I for given by the MCGM to the second party union. I do not know whether second party union demanded the copy of Annexure-I to be provided to MCGM. I say that their might be

correspondence with MCGM with respect of Annexute -I if available I am ready to produced before this court.

50) I do not know during the pendency of com (ULP) 328/2011 and Com.(ULP) 418/2011 it is admitted on behalf of complainant union of received copy of Annexute-I from MCGM. The copy of order passed in Com (ULP) 328/2011 and 418/2011 is placed on record wherein the contention of complainant in respect of not received Annexute-I is rejected.

51) Now, I am shown para no.13 and 14 in affidavit in chief. It is not correct to say that clubbing of staff nurses was not disputed or not declared by any court that clubbing is illegal. I further say that clubbing of staff nurses is the illegal such type of clubbing was not granted by any code. It is not correct to say that demand in respect of clubbing of staff nurses was neither raised nor refereed this tribunal from the adjudication. Now, I am shown the copy of chart of demand and reference order at Exh.O-2. I say that demand no 2 and 3 scheduled of reference is the same. I say that due to clubbing of staff nurses there they getting less payment. I say that right now I have no calculation to show wages before fixation and after fixation. However, I have filled the copies of pay scale on record. I say that I have not read the cross-examination of first witness namely Gracy Qudors in Exh.U-4 and U-9. I can not tell the cirrectness of evidence of Smt.Gracy Qudors. Now, I am shown the copy of fixation of pay scale dtd.30.09.2011 (Exh.16 colly. Pg no.19) which is ready for pay reference showing that before fixation basic is Rs.4120-120-4480-130-5130-150-6030-160-6830 after fixation the revised pay of Rs.5000 on 01.01.1996 and

fixation in 6<sup>th</sup> pay commission as on 01.01.2006 the basic of Rs.5000 is fixed in 6<sup>th</sup> pay commission of Rs.9300 in pay scale of 9300-34800+grade pay 4200/- (PB-2). Witness volunteers that the said fixation is not correct. It is not correct to say that fixation of pay scale is already decided by Industrial Court, Mumbai in Com (ULP) No.328/2011 and 418/2011. It is correct to say that both the complaint were dismissed.

52) Now, I am shown para no.22 of my affidavit in chief. I say that I do not know the grade pay of staff nurses as per 6<sup>th</sup> pay commission of state government employee Rs.4200/-. It is not correct to say that as per the terms and conditions of agreement we have not concerned with the rate of central government employees. Now, I am shown para no.23. It is correct to say that the contention in para no.23 in respect of lab technician and x-ray technician was not mentioned in statement of claim. Now, I am shown para no.25 and 26 my affidavit in chief. It is correct to say that the contention of para no.25 and 26 are not taken in the statement of claim. It is not correct to say that the contention of para no.23 to 26 are not part of demand. It is not correct to say that the calculation is made in para no.28 with central government staff is not a part of dispute. It is correct to say that in Com (ULP) No.381/2015 filed before this court was withdrawn. It is not correct to say that the concerned employees in the present reference and employees in Com(ULP) 381/2015 are one and say. I say that I can't produced the list of concerned employees before this court. It is correct to say that the Com (ULP) 381/2018 was withdrawn before this court. It is not correct to say that the entire contention in

Ref.(IT)No.14/2017

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Exh.U-26  
Vidula S. Patil

affidavit in chief at para no.1 to 29 are not correct and demand raised by second party false.

**Cross-examination completed.**

**No re-examination.**

**Witness discharged.**

**R.O.A.C.**

Date : 27.07.2023

app/-

sd/-

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