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Compln.(ULP)No.1064/2024(O)

CNR No. MHIC01-001610-2024

IN THE INDUSTRIAL COURT MAHARASHTRA AT MUMBAI

COMPLAINT (ULP) NO. 1064 OF 2024

Shripat Narayan Pandirkar
Flat No. 505, Swami Varad Vinayak,
Katrap Road, Badlapur East,
Badlapur-421 503.

...Complainant

Versus

The General Manager
Brihanmumbai Electric Supply & Transport
Undertaking
of Municipal Corporation of Greater Mumbai
BEST Bhavan, BEST Marg,
Colaba, Mumbai-400 001.

...Respondent

CORAM: M.R. KUMBHAR, MEMBER.

Appearances: Shri. B.T. Kamble, Advocate for Complainant.
Shri. G.R. Naik, Advocate for Respondent.

ORDER BELOW EXH.C-2

(Dated 01.04.2025)

- 1) Read application filed on behalf of respondent. Perused say filed on behalf of complainant.
- 2) Heard both the Ld. Advocates for parties.
- 3) By this application, respondent prayed to allow the present application and to set aside “no written statement” order

passed in this matter. The written statement may be taken on record.

4) It is submitted on behalf of respondent that in the present matter, this court has passed “no written statement” order dated 30.01.2025. Today respondent wish to file their written statement which is just and necessary to decide the matter on merit. It is further submitted that if written statement is not taken on record, heavy loss, prejudice would be caused to the respondent undertaking. Whereas, no loss or prejudice would be caused to complainant. The balance of convenience is in favour of respondent and prayed to allow the application and to quash and set aside “no written statement” order dated 30.01.2025.

5) On the contrary, on behalf of complainant strongly objected the very application filed by respondent. It is further submitted that respondent inspite of giving more than reasonable opportunity to file written statement, but respondent failed to file in time. Therefore, order is passed by the court after verifying the record. Therefore, application is liable to be rejected and prayed to reject the application.

6) Having heard the oral submissions of both the parties, I have gone through the complaint filed by complainant at Exh.U-1 which is filed under Section 28 and 30(2) read with Items No. 5 and 9 of Schedule IV of MRTU & PULP Act and prayed that to direct respondents to make payment of final dues bill, unpaid L.T.A. from

2022 till the year of retirement of complainant and ex-gratia in lieu of bonus for the financial year of retirement along with interest @ 18% per annum to complainant.

7) It is needless to mention here that complainant approached this court on 18.11.2024. Notices were issued to respondents. As per bailiff report Exh.O-2, though respondents served but failed to appear and file written statement. As per the request of complainant, ex-parte order is passed. Thereafter, the present application is filed along with vakalatnama of Shri. G.R. Naik, Ld. Advocate for respondents at Exh.C-1 and present application for setting aside at Exh.C-2 praying to quash and set aside “no written statement” order. Complainant along with list Exh.U-2 placed on record the order of Hon’ble High Court in Writ Petition No. 1364/2021 wherein respondent no. 3 is directed to pay retiral benefits to petitioners and all other similarly situated employees like petitioners within a period of three months from today with interest, if any, as per rules.

8) The order is passed on 09.02.2022. Respondents failed to pay the retiral dues as per the order of Hon’ble High Court. Therefore complainant approached this court. However, respondents now appeared and filed their written statement. As demand is of financial in nature, it should be decided on its own merit by allowing both the parties to lead their evidence, if any, on merit. As well as in the interest of justice, I come to the conclusion

that reasons mentioned in the application are good and sufficient to quash and set aside the “no written statement” order. Therefore, application is liable to be allowed and written statement is required to be taken on record.

9) With this I proceed to pass the following order.

ORDER

- 1) Application at Exh.C-2 is allowed.
- 2) “No written statement” order dated 30.01.2025 is hereby quashed and set aside.
- 3) Written statement of respondents is taken on record.
- 4) Case to proceed further.

Dated: 01.04.2025

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

ams/-