

Exh. O-

**BEFORE THE MEMBER, INDUSTRIAL COURT NO.1,
MAHARASHTRA AT KOLHAPUR.**

COMPLAINT (ULP)No. 154/2021
(CNR No. MHIC090003562021)

Municipal Transport Workers Union & Anr. .. Complainant

V/s

Kolhapur Municipal Transport .. Respondent

: ORDER ON EXH. U-27 :

(Dated 07.08.2024)

1. The complainant has filed present application for direction to Respondent to submit complete details of policy adopted towards grant of appointment to candidates on compassionate appointment. It is also urged that by way of interim relief direction be issued to Respondent not to grant permanency to candidates of compassionate appointment till the decision of present application.

2. It is contended that the complainant has reliably learnt that the respondent is in the process of granting permanency to the candidates of compassionate appointment. The complainant No. 2 is working with the respondent on daily wage basis since many years. The complainant relies upon the settlement of the year 2002 entered

into between the recognised union and respondent in which a formula of 3:1 is provided and the same is not yet changed. It is submitted that in breach of said settlement, the respondent is bent upon to grant permanency to the candidates of compassionate appointment by ignoring the eligible daily wage employees. It is contended that in case of grant of permanency to compassionate appointment candidates, there would be a change in seniority and roster, resulting in severe prejudice to the claim of daily wage employees. Thus, it is urged to grant interim relief and suitable directions.

3. The application is supported by affidavit Exh. U-28. The complainant filed documents with list Exh. U-29. It is copy of letter dated 10th July 2024 in which the Assistant Commissioner of the respondent Corporation has sought no objection regarding the seniority list of candidates of compassionate appointment on or before 12th July 2024. In the said letter it is mentioned that objections are sought for granting permanency to candidates of compassionate appointment working as daily wager (*Badli*).

The complainant filed copy of settlement of the year 2002 vide

list Exh. U-30. The copy of objection raised by daily wage workmen dated 12th July 2024 is filed vide list Exh. U-31.

4. The respondent has filed reply vide Exh. C-13. It is contended that the complainant No. 2 has wrongly submitted that he is working as daily wage workman. In fact, he is *Badli* conductor. It is contended that instead of raising objection with the respondent, the complainant has filed present premature application.

The list of *Badli* conductors include the name of other *Badli* conductors including the complainant as well as *Badli* conductors on compassionate appointment. It is also contended that only the recognised union can raise such issues. In case of change in service conditions of the workmen the respondent has taken the recognised union in confidence. Thus it is urged to reject the application.

5. The respondent submitted document vide list Exh. C - 11. It is copy of letter dated 25th April 2023 written by the Administrator of Kolhapur Municipal Corporation to the Chief Secretary, Ministry of Urban Development, Mumbai. Through the said letter the respondent sought guidance from the State Government regarding filling up the vacant posts. The respondent filed copy of Judgement dated 13th

October 2021 passed by this Court in Complaint (ULP) No. 169/2017 in the matter of candidates of compassionate appointment.

6. The Ld. Counsels for the litigating parties have canvassed oral arguments in support of their respective contentions.

The Ld. Counsel for the complainant argued that the present matter is filed by recognised union. The complainant has apprehension that the respondent shall grant permanency to the candidates of compassionate appointment by ignoring the candidates working on daily wages basis. Thus, it is necessary to direct the respondent to comply the terms of settlement of 2002. It is argued that even if interim orders are passed in favour of the complainant that would suffice the purpose. It is argued that it is not necessary to make such candidates of compassionate appointment, a party respondent, to the present proceeding because no directions are sought against them; it is only urged that the respondent ought to follow the terms of settlement as agreed upon.

7. The Ld. Counsel for the respondent argued that the respondent has not breached any of the policies, terms of settlement or directions issued by this Court. The candidates of compassionate

appointment and the candidates working as *Badli* are enlisted in a common list. The respondent only sought objections regarding the candidates of compassionate appointment. Statement is made across the bar that the respondent shall abide by the terms of settlement entered with the recognised union. Hence the apprehension of complainant is ill founded. Thus, it is urged to reject the application.

8. Heard the Ld. Counsels and perused the papers. Although a statement is made by the Ld. Counsel for respondent that a joint/combined list of candidates of compassionate appointment and candidates working as *Badli* employees is maintained; no such list is filed on the record.

The respondent has sought objections about the candidates of compassionate appointment only. Despite sufficient opportunity, the respondent has not filed copy of policy decision regarding grant of permanency to workmen working as *Badli* or of compassionate appointment candidates. Through the letter dated 10th July 2024 the respondent sought objection about the candidates of compassionate appointment only. Although it referred the letter of Administrator of Kolhapur Municipal Corporation dated 4th July 2024 but the copy

thereof is not filed on the record.

Considering the conduct of respondent, this Court finds that it has not submitted the complete information about its policy for grant of permanency to *Badli* candidates and candidates of compassionate appointment. Therefore, the application is liable to be partly allowed as the apprehension of the complainant is well-founded that the respondent might grant permanency to the candidates of compassionate appointment ignoring the *Badli* candidates. Hence the following order is passed.

: ORDER :

1. The application is partly allowed.
2. The respondent is directed to follow the terms of settlement as entered with the recognised union while granting permanency to candidates of compassionate appointment.

Kolhapur
07.08.2024

(S.S. Khandekar)
Member, Industrial Court, Kolhapur