

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2048 OF 2010
WITH
CONTEMPT PETITION NO. 58 OF 2013
WITH
NOTICE OF MOTION NO. 307 OF 2015

Mahrukh Shavak Chikliwala & Ors. ... Petitioners
Vs.
Union of India & Ors. ... Respondents

WITH
WRIT PETITION NO. 282 OF 2011
WITH
CONTEMPT PETITION NO. 13 OF 2013

Rajendra Sadashiv Nesarikar & Ors. ... Petitioners
Vs.
Union of India & Ors. ... Respondents

WITH
WRIT PETITION NO. 1189 OF 2011
WITH
NOTICE OF MOTION NO. 281 OF 2014
WITH
NOTICE OF MOTION NO. 110 OF 2017

Brajesh K. Darad & Ors. ... Petitioners
Vs.
Union of India & Ors. ... Respondents

WITH
WRIT PETITION NO. 2641 OF 2010
WITH
CONTEMPT PETITION NO. 53 OF 2013
WITH
NOTICE OF MOTION NO. 312 OF 2015

Shashikant Narayan Dhotre & Ors. ... Petitioners

Vs.

Union of India & Ors. ... Respondents

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Mr. Rohan Cama a/w Mr. Aditya Bhat i/b. M/s. Sanjay Udeshi and Co. for the Petitioner in WP/2048/2010 and WP/261/2010.

Ms. Laxmi Murali for the Petitioner in WP/1189/2011.

Mr. Mohan Bir Singh a/w Mr. Rahul Jalan I/b. MBS and Co. for the Petitioner in WP/282/2011 and CONPW/13/2013.

Ms. S.I.Shah a/w Mr. D.A. Dube i/b. S.I.Shah and Co. for Respondent No.1 in WP/2641/2010.

Mr. Advait M. Sethna a/w Mr. G. Hariharan i/b. Mr. Pankaj Kapoor for Respondent No.1 in WP/282/2011.

Mrs. Neeta Masurkar a/w Mr. H.V. Mehta for Respondent No.1 in WP/1189/2011.

Mrs. Neeta Masurkar a/w Mr. V. S. Masurkar for Respondent No.1 in WP/2048/2010.

Mr. Sudhir Talsania, Senior Advocate a/w Ms. Kavita Anchan for Respondent Nos. 2 & 3 in all the Petitions.

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**CORAM : S. C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

DATE : NOVEMBER 14, 2017.

P.C. :

1. There is an affidavit filed by the Air India affirmed on 4th November, 2017, copies of which have been served on all the petitioners' Advocates.

2. It is argued on the basis of the statements made in this affidavit that in Writ Petition No. 1189 of 2011, the petitioners, though entitled to be paid as serving executives, are not paid the sums, namely, productivity linked incentive, arrears of salary and

allowances and leave encashment arrears at the time of retirement.

3. Mr. Talsania, learned Senior Counsel appearing for the respondent Air India, on instructions, states that the productivity linked incentive is admissible and the sums in relation thereto are due and payable, but presently, he is not in a position to make any positive statement given the precarious financial condition of Air India.

4. As far as the other two items, namely, the arrears of salary and leave encashment arrears, Mr. Talsania states that he has instructions to dispute entitlement of the petitioners in relation thereto, particularly on account of certain statements made in the latest affidavit.

5. Our attention has been invited in that regard to a categorical statement on oath which says that the petitioners are not entitled to leave encashment as that was not a subject matter of the order dated 23rd November, 2011 or the order dated 22nd August, 2012. In any event, leave encashment is not a part of the concerned wage settlements and there is no question of payment of arrears in this regard.

6. Mr. Talsania states that after the amounts mentioned in paragraphs 2.2 clause (i) and 2.7 as also annexures "G-1" and "G-

2" of this affidavit, nothing by way of arrears is due and payable to any retired/serving employees of the company, as full and final payments have already been made by the respondents.

7. Mrs. Murali, Mr. Cama and Mr. Singh, appearing on behalf of the respective petitioners, would like to respond to this stand in the affidavit and they seek time to file a rejoinder.

8. Equally, Mr. Talsania seeks time to take instructions as to within what period the amounts which are remaining to be paid but due and payable would be released.

9. In the circumstances, we post this matter under the same caption, namely, for passing orders on 4th December, 2017. Leave to file a rejoinder affidavit, and if that is filed and duly served, is granted but that should be on record positively before 27th November, 2017.

(SMT. BHARATI H. DANGRE, J.)

(S. C. DHARMADHIKARI, J.)