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

WRIT PETITION NO. 3828 OF 2022

Cinnaraj Cinnanaygam and Ors. } Petitioners
Versus
Union of India and Anr. } Respondents

Mr. Bhavesh Parmar with Ms. Reshma Nair i/b. Mr. Devmani Shukla for the petitioners.

Mr. Ashok Shetty and Mr. Deepak Shukla for respondents (UoI).

**CORAM: DIPANKAR DATTA, C. J. &
 MADHAV J. JAMDAR, J.**

DATE: OCTOBER 20, 2022

P.C.:

1. We have heard Mr. Parmar, learned advocate for the petitioners and Mr. Shetty, learned advocate for the respondents at some length.

2. There is an award dated 1st March 2017 passed by the Presiding Officer of the Central Government Industrial Tribunal No. 2, Mumbai (hereafter "CGIT-2", for short) in Reference No. CGIT-2/63/2009. The award directs the Management to regularize the services of the concerned workmen represented by Mumbai Shramik Sangh with effect from their respective dates of completing 240 days in service in Bhabha Atomic Research Centre (hereafter "BARC", for short) and pay them the arrears of wages and other benefits applicable to the permanent workmen of BARC.

3. Although the award is subject matter of challenge in a writ petition instituted in 2018, we have not been shown that the award has been stayed by this Court.

4. An apprehension has been expressed by Mr. Parmar on behalf of the petitioners that appointments made pursuant to the impugned advertisement bearing no. 02/2022 (NRB) dated 31st July 2022 on the sanctioned posts of Work Assistant-A in BARC would result in filling up the vacancies which would leave the petitioners high and dry, despite the subsisting award.

5. We find that although the award was made by the CGIT-2 in favour of 27 workmen, the first 11 petitioners before us are *prima facie* entitled to regularization in terms of such award so long the same is not set aside/stayed. The petitioners 12 to 15 are heirs of deceased workmen and, therefore, their claim for appointment in place of their predecessors-in-interest may not arise at this stage.

6. Having considered the rival submissions and the materials on record, we restrain the BARC from making appointments in terms of the impugned advertisement on 11 posts of Work Assistant-A without obtaining leave of this Court. This interim arrangement shall continue till 30th November 2022.

7. The respondents may file reply affidavit by 14th November 2022; rejoinder thereto, if any, may be filed by 18th November 2022. List the writ petition on **22nd November 2022**.

8. We record Mr. Shetty's submission that the Nuclear Recycle Board having issued the impugned advertisement, it

is a necessary party to the writ petition. However, Mr. Shetty is unable to apprise us who the members of the Nuclear Recycle Board are.

9. In any event, to obviate future complications, we grant liberty to Mr. Parmar to implead the Nuclear Recycle Board as respondent no. 3 in the writ petition. Amendment shall be carried out here and now. Mr. Shetty waives service for the added respondent.

(MADHAV J. JAMDAR, J.)

(CHIEF JUSTICE)