



news flash

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CONTRACT WORKERS ON COVID-19 DUTY ENTITLED TO SPECIAL ALLOWANCE AT PAR WITH REGULAR WORKERS

Introduction

The Bombay High Court has, on 27 May 2020, passed an interim order in the case of *Samaj Samata Kamgaar Sangh V/s Navi Mumbai Municipal Corporation & Ors.*¹ ruling that contract workers (“**Kamgaars**”) involved in the COVID-19 related duties who are fulfilling their responsibilities by risking their lives would be entitled to the same allowance as workers hired directly by the Respondent No. 1, Navi Mumbai Municipal Corporation (“**Corporation**”). Those working in healthcare facilities are in direct contact and/or care of COVID-19 patients would also be covered by the special insurance scheme announced by the Central Government.

Brief Facts

- The petition was filed by the petitioner on behalf of about 6,277 Kamgaars, 3261 of which are engaged in the activities of solid waste management, 693 Kamgaars in the health department, which includes duties at four Corporation Hospitals and 23 urban health posts across Navi Mumbai. About 65 Kamgaars are employed on cemetery cleaning duty.
- The regular workers and employees of the Corporation who are directly employed by them are being paid a daily allowance of Rs. 300/- under the circular dated 7 April 2020 (“**Circular**”) issued by the Corporation while the Kamgaars are not.
- The Kamgaars have also not been provided with necessary protective equipment or adequate washing facilities.
- The petitioner approached the court praying that the respondents be directed to arrange for protective equipment, adequate washing facilities, equal allowance as the regular employees of the Corporation and coverage under the insurance scheme announced by the Central Government.

¹ Bombay High Court – AD-HOC NO. WP-LD-VC-46 OF 2020

Contentions of the parties

- The petitioner had initially raised demands for provision of protective equipment and washing facilities for the Kamgaar.
- The workers and employees of the Corporation were receiving the aforesaid allowance under the Circular directing such payment while observing that despite the workers of the Corporation facing difficulties in reaching their workplace and in procuring food/ meal services due to the lockdown, the workers are “fulfilling their responsibilities by risking their lives”. The Kamgaars are facing the same risks and should be entitled to the same rewards.
- The respondent contended that Kamgaars were being paid by the contractor and were not entitled to claim parity or receive an allowance which the Corporation was providing to its workers.
- The respondent raised issues that the Kamgaars were (i) being provided transportation, (ii) receiving a salary of Rs. 20,000 per month, (iii) were only working four hours a day instead of eight hours since the quantum of solid waste had reduced, (iv) the State Government had directed government and public bodies to reduce their expenses, (v) the contract worker of other corporations would demand similar benefits and (vi) the contractor should bear some of the increased costs.
- Further, the petitioner contended that the Finance Minister, in her speech, had stated that the special insurance scheme would cover the health care facility workers and therefore, it should be made applicable to the Kamgaar.

Ruling of the Bombay High Court

The Bombay High Court held as follows:

1. The Bombay High Court noted that the first two grievances, protective equipment and washing facilities, had already been addressed by initial orders dated 14 May 2020 and 15 May 2020 of the Court.
2. The Court initially observed that the stand of the Corporation, that Kamgaars were not entitled to parity, was unfair, especially under the present circumstances.
3. On being enquired by the Court for the disparity in payment of allowance, the Corporation responded that the employees of the Corporation were fulfilling their responsibilities by risking their lives. This contention was refuted by the Court and it observed that applies to the Kamgaars as well since they too are involved in COVID-19 related duties.
4. The Court also disregarded various issues raised by the Corporation for justifying non-payment of allowance to the Kamgaars.
5. On request of the Corporation, the Court passed an interim order directing the Corporation to certify a list of Kamgaars engaged in COVID-19 related duties, and on the basis of their attendance at the end of each month, the special allowance as per the Circular would be paid to the contractors, who would in turn disburse it to the entitled Kamgaars.
6. The said allowance would be paid without prejudice to the rights of the parties.
7. The Respondent No. 2 i.e. Union of India has submitted that they would cover all healthcare facility workers certified by the Corporation who are in direct contact and/or care of COVID-19 patients under Special Insurance Scheme.
8. The matter has been adjourned to 12 June 2020 for further orders/ hearing with liberty to apply.

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