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ITEM NO.1

COURT NO.9

SECTION XV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).

12575-12577/2014

(Arising out of impugned final judgment and order dated 27/01/2014 in WP No. 1606/2013 27/01/2014 in WP No. 1606/2013 27/01/2014 in CS No. 284/2013 13/03/2014 in WP No. 331/2013 passed by the High Court Of Bombay)

AIR INDIA LTD

Petitioner(s)

VERSUS

AIR INDIA EMPLOYEES UNION & ANR ETC.

Respondent(s)

WITH

SLP(C) No. 13072-13073/2014

(With appln.(s) for permission to file additional documents and appln.(s) for permission to place addl. documents on record and appln.(s) for permission to place addl. facts and grounds and appln.(s) for exemption from filing c/c of the impugned judgment and appln.(s) for permission to file synopsis and list of dates and Interim Relief and Office Report)

SLP(C) No. 13232-13233/2014

(With (With (With (With appln.(s) for permission to place addl. documents on record and appln.(s) for permission to place addl. facts and grounds and appln.(s) for exemption from filing c/c of the impugned judgment and appln.(s) for permission to file synopsis and list of dates and Interim Relief and Office Report)

SLP(C) No. 13942-13943/2014

(With appln.(s) for permission to place addl. documents on record and appln.(s) for permission to place addl. facts and grounds and appln.(s) for exemption from filing c/c of the impugned judgment and appln.(s) for permission to file synopsis and list of dates and Interim Relief and Office Report)

SLP(C) No. 14124-14125/2014

(With appln.(s) for permission to place addl. facts and grounds and appln.(s) for permission to place addl. documents on record and appln.(s) for permission to file synopsis and list of dates and Interim Relief and Office Report)

SLP(C) No. 14126-14127/2014

(With appln.(s) for permission to place addl. documents on record and appln.(s) for permission to place addl. facts and grounds and appln.(s) for exemption from filing c/c of the impugned judgment

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and appln.(s) for permission to file synopsis and list of dates and Interim Relief and Office Report)

SLP(C) No. 14233/2014

(With appln.(s) for permission to file additional documents and appln.(s) for directions and appln.(s) for directions and appln.(s) for exemption from filing c/c of the impugned judgment and Office Report)

SLP(C) No. 14253-14255/2014

(With appln.(s) for permission to place addl. documents on record and appln.(s) for exemption from filing c/c of the impugned judgment and appln.(s) for permission to file synopsis and list of dates and appln.(s) for permission to place addl. facts and grounds and Interim Relief and Office Report)

SLP(C) No. 15299/2014

(With appln.(s) for directions and appln.(s) for directions and Interim Relief and Office Report)

SLP(C) No. 17328-17329/2014

(With appln.(s) for exemption from filing c/c of the impugned judgment and Interim Relief and Office Report)

SLP(C) No. 17417-17418/2014

(With appln.(s) for directions and appln.(s) for exemption from filing c/c of the impugned judgment and Interim Relief and Office Report)

SLP(C) No. 15957-15958/2014

(With appln.(s) for exemption from filing c/c of the impugned

judgment and Interim Relief and Office Report)

S.L.P.(C)...CC No. 17901/2014

(With appln.(s) for c/delay in filing SLP and Office Report)

SLP(C) No. 12597-12598/2014

(With appln.(s) for permission to place addl. documents on record and appln.(s) for permission to place addl. facts and grounds and appln.(s) for exemption from filing c/c of the impugned judgment and appln.(s) for permission to file synopsis and list of dates and Interim Relief and Office Report)

Date : 27/09/2016 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE KURIAN JOSEPH

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

Counsel for the

parties Mr. Mukul Rohtagi, Attorney General

Mr. H. P. Raval, Sr. Adv.

Ms. Divya Anand, Adv.

Ms. Ranu Purohit, Adv.

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Mr. Lalit Bhasin, Adv.

Ms. Nina Gupta, Adv.

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Mr. Anando Mukherjee, Adv.

Mr. Mudit Sharma, Adv.

Ms. Ratna Dhingra, Adv.

Mr. J. P. Cama, Sr. Adv.

Mr. C. A. Sundaram, Sr. Adv.

Mr. Sanjay Singhvi, Sr. Adv.

Ms. Jane Cox, Adv.

Ms. Aparna Bhat, Adv.

Mr. Pukhrambam Ramesh, Adv.

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Mr. Shyam Divan, Sr. Adv.

Mr. Gopal Shankarnarayan, Adv.

Mr. Mahesh Agrawal, Adv.

Mr. Abhinav Agrawal, Adv.

Ms. Devika Mohan, Adv.

Mr. Zeeshan Diwan, Adv.

Mr. E. C. Agrawala, Adv.

Mr. Udayaditya Banerjee, Adv.

Mr. Dhruv Mehta, Sr. Adv.

Mr. Sanjoy Ghose, Adv.

Mr. Gautam Narayan, Adv.

Mr. R. A. Iyer, Adv.

Mr. Shatrajit Banerji, Adv.

Mr. Kaustubh Anshuraj, Adv.

Ms. Madhavi Diwan, Adv.

Mr. M. Rambabu, Adv.

Mr. B. K. Prasad, Adv.

Mr. Ashok D. Shetty, Adv.

Ms. Yamunah Nachiar, Adv.

Mr. S. Ravishankar, Adv.

Mr. M. P. Siddiqui, Adv.

Mr. Chand Qureshi, Adv.

Mr. Franklin Caesar Thomas, Adv.

Mr. Mudit Sharma, Adv.

Mr. Purushottam Sharma Tripathi, Adv.

Mr. Mukesh Kumar Singh, Adv.

Mr. Ravi Chandra Prakash, Adv.

Mr. Luv Kumar, Adv.

Mr. Ranbir Singh Chillar, Adv.

Mr. Sagar Kumar, Adv.

Ms. Amita, Adv.

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Mr. L. Nithi Ram Sharma, Adv.

UPON hearing counsel the Court made the following

O R D E R

The present dispute, inter alia, relates to whether Section 9A of the Industrial Disputes Act, 1947 would apply to the respondents herein, by virtue of a 1960 Regulation made under proviso (b) thereof no longer having any effect in law, as a result of the introduction of The Air Corporations (Transfer of Undertakings and Repeal) Act, 1994. By Judgment dated 27.01.2014, the Division Bench of the Bombay High Court has relied upon a Judgment of this Court in Air India Vs. Union of India reported in (1995) 4 SCC 734, which held that on the coming into force of The Air Corporations (Transfer of Undertakings and Repeal) Act, 1994 with effect from 29.01.1994, Regulations made under The Air Corporations Act, 1953 would also come to an end. This Judgment, as has been noted by the impugned Judgment itself, has been referred to a larger Bench by an order dated 11.12.2006 in Civil Appeal No. 5921 of 2006.

The learned senior counsel appearing on behalf of the respondents have raised several arguments, some of which are new, in which they have submitted before us that it may not be necessary to refer these matters to a Bench of three Hon'ble Judges, as those arguments also go to the root of the matter and if decided in their favour, would be sufficient to sustain the Judgment under appeal. One of the arguments is that in any case, the State Government, which issued the Notification of

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1960, was not the appropriate Government at the relevant time. Other arguments dealt with the 1959 Regulation itself being otherwise repealed, and settlements that are in force in favour of the respondents herein would, in any case, enure to the respondents' benefit, have also been addressed before us. We feel that as the impugned Judgment is largely based on (1995) 4 SCC 734, which has since been referred to a Bench of three Hon'ble Judges, it would be in the fitness of things if all submissions, whether new or otherwise, which arise in the form of legal propositions, can be placed before a Bench of three learned Judges.

We would be remiss if we would not refer to the learned Attorney General's arguments also that persons who are members of the respondents cannot be said to be workmen at all for the purpose of the Industrial Disputes Act. This was countered saying that this question does not at all arise in the present proceedings as the very question is pending between the same parties in the Bombay High Court. All these questions need to be authoritatively decided by a Bench of three learned Judges of this Court and accordingly, we refer these matters to a Bench of three Hon'ble Judges.

Inasmuch as the members of the respondents have been suffering a cut in their emoluments from 2013 onwards, which cut has continued only by virtue of the fact that no interim orders were passed on the basis that the matter itself would be decided early, we feel that I.A.Nos. 3-4 and all other interlocutory applications for interim relief as well should also be heard by

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a Bench of three Hon'ble Judges for immediate disposal. We, therefore, request Hon'ble the Chief Justice of India to constitute a Bench of three learned Judges to determine all these questions as soon as possible in view of the fact that for at least the last three to four years, there is great dissatisfaction among the members of the respondents that they continued to suffer a cut in their emoluments as a result of implementation of, what is alleged by them to be a one-sided Committee Report.

These matters stand referred accordingly.

(Jayant Kumar Arora)

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Court Master (Renu Diwan)
Assistant Registrar