IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8217 OF 2014

KSB Kamgar Sanghatana,
Shankar Ambadas More,
Near Dehre Ves, Wambori (Khalwadi),
Taluka Rahuri, Dist.Ahmednagar, PETITIONER
Through its Secretary

VERSUS

KSB Pumps Limited,
At Post Wambori,
Taluka Rahuri, Dist.Ahmednagar,
Through its Deputy General Manager RESPONDENT
(Foundry)

Mr.T.K.Prabhakaran h/f Mr.P.V.Barde, Advocate for the petitioner.
Mr.A.V.Patil h/f Mr.A.R.Joshi, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 17/07/2015

ORAL JUDGMENT :

1. Rule.

2. By consent, rule made returnable forthwith and heard finally.

3. On 23/06/2015, after considering the submissions of the learned Advocates, I have passed the following order :-

"1. The learned Advocates for both the sides have no objection if this Court hears the matter.

2. Considering the convenience of Mr.Prabhakaran with Mr.Barde, learned Advocates for the petitioner and Mr.Ashok Patil with Mr.A.R.Joshi, learned Advocates for the respondent, this matter is posted to 17/07/2015 by consent."

4. The petitioner Union has called in question an interim order passed by the Industrial Court dated 18/07/2014 below Exh.U-2, which is an application filed by the petitioner Union u/s 30(2) of the MRTU and PULP Act, 1971. The main Complaint (ULP) No.54/2014 u/s 28(1) r/w Items 5 and 9 of Schedule IV of the MRTU and PULP Act, 1971 (For short, the Act) is pending adjudication.

5. Mr.T.K.Prabhakaran alongwith Mr.P.V.Barde, learned Advocates for the petitioner and Mr.A.V. Patil with Mr.A.R.Joshi, learned Advocates for the respondent were heard extensively. Keeping in view that an interim order is assailed in this petition and the main complaint is pending adjudication, I am not adverting to their entire submissions.

6. After conclusion of their submissions, both the learned Advocates have submitted that the main Complaint could be disposed of on its merits on or before 31/10/2015 since this case

primarily turns upon the documents in relation to the settlement dated 12/09/2012.

7. The case of the petitioner Union in brief is as under :-

a. Though the settlement dated 12/09/2012 has settled the norms of productivity, new norms have been introduced in between November 2013 and December 2013 by the Management pursuant to the automation that was introduced in the factory.

b. The employees are achieving all the norms of productivity as set out in the settlement.

c. It is only when a selected few employees were served with show cause notices, which was followed by punishment of suspension as well as deduction, did the members of the Union realize that new norms with regard to new items were introduced.

d. When the settlement provides for an inbuilt mechanism in the form of withdrawing certain benefits or the increase in salary, for purportedly violating the settlement, the punishment of suspension would amount to double jeopardy as the deduction or withdrawal of increased salary itself is by way of a punishment.

e. No production norms have been settled in view of the new items introduced in and around November and December 2013.

f. Deduction from the salary of a select few employees is being done when the entire production involves a group activity.

g. Selected few are being targeted in order to undermine the strength of the newly recognized Union.

h. Till the complaint is decided, further deduction be restrained and further disciplinary action be prevented.

8. The submissions of the respondent can be summarized in brief as follows :-

a. The Management introduced automation in and around September 2013.

b. Automation is with the object of improvisation in plant, machinery and manufacturing techniques so as to reduce physical labour of the employees.

c. Crores of rupees have been invested for the said automation.

d. Time measurement was done in October 2013 and subsequently, notices were displayed to indicate the norms of the new items introduced.

e. Cause of action arose in January 2014 and the complaint has been instituted on 04/07/2014, delayedly.

f. The settlement dated 12/09/2012 was signed by the Management with the recognized Union.

g. Clause Nos. 23, 24, 30 and 33 are relevant with regard to the scope of automation and introduction of modern machinery and production techniques.

h. Since the old recognized Union which signed the settlement, was de-recognized and the petitioner Union was recognized in its place in April 2014, the newly recognized Union is creating hurdles in the smooth functioning of the plant.

i. Videography / recording was resorted to by the Management in co-operation with the earlier recognized Union before arriving at the time measurements.

j. The company is not interested in taking disciplinary action or imposing punishments on its workers or reducing their salary by withholding benefits under the settlement, but is more concerned about the smooth functioning of the factory and in achieving the production norms.

k. The persons, who have been subjected to disciplinary action, are holding key positions and on account of their non co-operation, the production norms are not being achieved post automation which is creating a cascading effect on the entire production activity of the respondent factory.

l. It was the belief of the Management that if the persons holding key positions, who are responsible for the disturbance in production, were counselled or were subjected to minor disciplinary action, normalcy in production would have been achieved.

m. A specific affidavit has been filed by the respondent in this Court indicating the bonafides of the Management.

9. Having considered the submissions of the litigating sides, as have been recorded in brief as above, I find that the whole issue turns upon the expectation of the Management that the Union and its Members would achieve such norms which are an outcome of the automation that was carried out. It is the case of the Management that the automation on the one hand is aimed at introducing latest technology for quality products and on the other hand is aimed at

reducing the physical labour of the workman. The petitioner Union claims to be aggrieved on account of introducing new models / machineries which need to be subjected to time management measurements with the involvement of the Union.

10. I quite see that clause No.23 gives the Company the sole prerogative to decide and carry out measurement study of existing processes / jobs / work centers including changes effected with the advent of introduction of new model / machines, production lines and improvements in working processes, conditions, method, material, requirement of line balancing and such other connected modernization techniques.

11. The controversy is with regard to introduction of norms for new manufacturing patterns, which according to the petitioner has come as a surprise and that too through disciplinary action. I find it appropriate that the pending complaint be decided on its merits expeditiously so as to find a resolution to the dispute. It is with this view that I do not intend to cause any interference in the impugned order delivered by the Industrial Court dated 18/07/2014.

12. In the above backdrop, I am disposing of this petition by

directing the Industrial Court to decide Complaint (ULP) No.54/2014, as expeditiously as possible, and on or before the 31/10/2015, as is suggested by the learned Advocates for the respective sides.

13. Since this petition is disposed of without causing interference in the impugned order, both the litigating sides shall submit draft issues for the assistance of the Industrial Court as expeditiously as possible and preferably within a period of 15 days from today. The Industrial Court shall consider the draft issues and shall itself formalize the issues so as to enable the litigating sides to commence recording of evidence.

14. During the pendency of the complaint, in the event hereinafter the respondent imposes punishment of deduction of wages or carries out deduction as per any provision from the settlement, the amount so deducted shall be deposited in the Industrial Court within a period of 2 weeks post deduction. The Industrial Court shall invest the said amount in a Nationalized Bank in the City limits of Ahmednagar for a period of 4 months. The litigating sides are precluded for requesting the Industrial Court from withdrawing the said amount until the complaint is decided.

15. The above directions and the pending complaint shall however not be an impediment to the litigating sides to resolve the dispute amicably.

16. The litigating sides shall co-operate with the Industrial Court for the expeditious disposal of the complaint and shall refrain from seeking adjournments on unreasonable and trifle grounds, in which case, the Industrial Court would be at liberty to refuse such adjournments.

17. This petition is, therefore, disposed off and Rule is discharged accordingly.

(RAVINDRA V. GHUGE, J.)