

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 129 OF 2012

Mr.Arun Dattatraya Gore,
Saraswati Colony,
Temblai Wadi, Kolhapur.

... Petitioner

v/s

Manu Graph Industries Ltd.,
MIDC Shirol, Kolhapur.

... Respondent

Mr.Neel Helekar for the petitioner.

Mr.V.P. Vaidya for the respondent.

CORAM: N.M. JAMDAR, J.

DATED : 8 DECEMBER 2015

ORAL ORDER:

By this petition, the Petitioner challenges the order passed by the Labour Court, Kolhapur, below Exh.C-12 in Reference (IDA) No.33 of 2008, directing the Petitioner to deposit the amount of monetary benefits received by him from the Respondent under Voluntary Retirement Scheme (V.R.S.).

2. The Petitioner raised the dispute regarding the V.R.S. entered into between the Petitioner and the Respondent and his consequent alleged termination from 26 February 2000. In the statement of claim, the Petitioner contended that his signatures on blank papers

were taken on 26 February 2000 forcibly and thereafter he received a cheque for Rs.2,14,064/-. After taking the cheque, the Petitioner immediately went to meet the General Manager but he refused to reinstate him. This action was challenged by the Petitioner by raising a dispute in the year 2008. In the complaint, Respondent filed its written statement and contended that the claim made by the Petitioner was misconceived and was liable to be dismissed.

3. In the said Reference, the Respondent took out an application under Exh.C-12 that the dispute has been raised almost after six years, in the meanwhile, the Petitioner has enjoyed all the monetary benefits under the V.R.S. which the Petitioner must return before proceeding with the complaint. This application has been allowed by the impugned order dated 18 November 2011.

4. I have considered the contentions. It is not impermissible to challenge a voluntary retirement scheme on the ground of fraud even though it is signed. Whether a workman will succeed in his challenge or not would depend on facts of each case. While granting relief in favour of the applicant, the Court must take into consideration the balancing interest and equities, according to the facts and circumstances of the case. Whether such a direction is justified or otherwise, would depend on facts of each case and various parameters would therefore come in play. The Court may consider the time taken for challenge, the amount received, nature of challenge and various other relevant parameters. The Court may

find that it is equitable that a direction to deposit the amount is issued before a challenge is considered. In a given case, if the Court finds that such direction is not equitable, it is not precluded from refusing to order pre-deposit. Therefore, it is not impermissible for the Court to direct deposit of the amount received under the V.R.S., if the facts and circumstances and equities so warrant.

5. In the present case, the Petitioner has challenged the V.R.S. after a period of six years. He has received the amount and has enjoyed the benefits thereof. While considering the equities, delay and laches on the part of the party is one of the relevant criteria. There is no cogent explanation at all regarding the delay in the complaint. In the circumstances, the direction issued by the Labour Court by balancing the equities of the matter by directing deposit of the monetary benefits received, cannot be termed as perverse.

6. In the circumstances, the writ petition cannot be entertained and is accordingly rejected.

(N. M. JAMDAR, J.)