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

WRIT PETITION NO.8968 OF 2015

M/s. Hindustan Leval Employees' Union
Representing Shri Sanjay Dattu Patil. ... Petitioner.

V/s.

M/s. Hindustan Unilever Ltd. ... Respondent.

Mr. Bennet D'costa a/w. Ms. Neha Gupta for the Petitioner.
Mr. Neel Helekar a/w. A.K. Gopalan i/b. Haresh Mehta and Co. for
the Respondent.

CORAM : N.M. JAMDAR, J.

DATE : 15 DECEMBER, 2015.

ORAL JUDGMENT :-

Rule. Rule made returnable forthwith. Respondent waives service. By consent taken up for final disposal.

2. The Petitioner challenges the Award dated 21 December 2013 of the Civil Judge Senior Division/Labour Court, Daman under Section 10(1) of the Industrial Disputes Act, 1947, holding that the Petitioner is not entitled for the benefit of the settlement. A reference was made by the appropriate Government on 26 November 2004 for adjudication. According to the

Petitioner, the Petitioner was deprived of the settlement that was arrived at between the concerned workmen and the Respondent in an earlier round of litigation. According to the Petitioner, he was denied benefit of the settlement dated 16 June 2001 when the other persons were extended the said benefit. The Labour Court came to the conclusion that since the Petitioner was not one of the workmen covered by the said settlement, he cannot seek any benefit thereof.

3. The learned Counsel for the Petitioner submitted that the main grievance of the Petitioner was not that he should be extended the benefits of the settlement since it is covered by it but even though he is not covered by it, the benefit of the settlement which is extended to the other employees should be extended to him and that the Labour Court has not appreciated this contention.

4. If the statement of claim filed by the Petitioner and the arguments advanced by the Petitioner before the Labour Court as reflected in the impugned order are perused, it will make it clear that the Petitioner has not claimed the benefits of the settlement on the ground that he is covered by the same or is part of the same but that even though is not covered by the same, since it is extended to all other employees, the benefit should be extended to him. The order of the Labour Court has not examined the grievance of the Petitioner in this context. The learned Counsel for the Respondent has also not been able to show that this grievance

made by the Petitioner has been dealt with by the Labour Court in the impugned Award. Since the impugned Award proceeds on a completely erroneous basis as to the claim of the Petitioner, it is necessary to set aside the same and remand the proceedings to the Labour Court.

5. Accordingly, the Writ Petition is disposed off by quashing and setting aside the order dated 21 December 2013 and the Reference (IDR) No. 11 of 2004 stands restored to file to be disposed off as per law. All contentions of the parties are kept open. What is stated above is only to draw the attention of the Labour Court to the controversy involved and it is not reflection on merits of the rival contentions.

6. The parties shall remain present before the Labour Court, Daman on 12 January 2016. The Registry to communicate the order to the Labour Court by way of an E-mail apart from communication in regular course. The Labour Court will keep in mind that the Reference is of the year 2004 and give it priority it deserves.

7. Rule made absolute in the above terms. No costs.

(N.M. JAMDAR, J.)