

Sequeira

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

WRIT PETITION NO. 10061 OF 2015

Voltas Ltd. .. Petitioner
Vs.
Voltas Employees Union. .. Respondent

***Along with
WRIT PETITION NO. 10068 OF 2015***

Voltas Employees Union. .. Petitioner
Vs.
State of Maharashtra & anr. .. Respondent

Mr.S.K.Talsania-Senior Advocate a/w Mr.Sagar Sheth i/b Ms Madhavi Ravuri and Mr.Manish Upadhye, for the Petitioner in W.P. No.10061 of 2015 and for Respondents in W.P. No.10068 of 2015. Mr.Manoj Kadam, for the Petitioner in W.P. No.10068 of 2015 and for the Respondent in W.P. No.10061 of 2015.

***CORAM: N.M.Jamdar, J.
Wednesday 28 October, 2015***

PC. :

Considering the controversy involved at the request of both the parties, both the petitions are taken up for disposal.

2. The Reference (IT) No.32 of 2012 is pending before the Presiding Officer Industrial Tribunal Mumbai. In this reference, Petitioners in both these petitions that is the Management and the Union had filed a joint application to accept settlement dated 24 July 2015 and pass an award according to it. The learned

Presiding Officer rejected the application expressing doubt regarding the settlement that the settlement may not be in the interest of 118 employees and benefits are sought to be given only to permanent employees.

3. When the petition came up on board on 19 October 2015, the learned counsel urged that in law recognised Union, is entitled to enter into a settlement with the employer and it is binding on all concerned. It was submitted on behalf of the learned counsel for the Union, that the concerned 118 employees were not included in the settlement as they had long since ceased to be working for the management. It was also contended that none of the employees are not in touch with the Union. The learned Senior Advocate, for the management submitted that it is not open for the Tribunal to go into the validity of the settlement at this stage and in case any challenge is levied the Court has powers to examine the challenge on the ground of fraud, collusion, etc. in a separate proceeding.

4. On the last date a statement was made by the Union that they will issue a public advertisement putting the concerned workmen to notice. The learned counsel for the Union has placed on record advertisement issued on 20 October 2015 by way of an Affidavit. He submitted that nobody has contacted the Union office so far, even though the notice has given time of seven days.

5. In the circumstances, *prima facie* the contention of the Union that none of the 118 persons are interested and therefore, they

were rightly excluded, appears to be justified, as nobody has appeared before this Court, inspite of notice. The learned Presiding Officer has not indicated any other reason for rejecting the settlement. In view of this position, it will be appropriate that the impugned order is quashed and set aside and liberty is given to the parties to place on record the settlement dated 24 July 2015. The Tribunal will take note of the Affidavit filed by the Union dated 28 October 2015, annexing the advertisement and pass suitable order upon joint application.

6. Accordingly, both the Writ petitions are disposed of by quashing and setting aside the order dated 22 September 2015 with liberty to the parties to file joint application as regards the settlement dated 24 July 2015. It will be open to the Union to place on record the factum of publication of the advertisement along with the Affidavit. The Industrial Court will take note of this advertisement and pass appropriate orders as per law.

(N.M.Jamdar, J.)