

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 327 OF 2007

Premier Ltd.
[formerly called 'The Premier Automobiles Ltd']
now having its registered office at,
58, Nariman Bhavan, 5th Floor,
Nariman Point, Mumbai-400 021

.....Petitioner

: V/S :
Shri. Sitaram Kashinath Sawant
and anr.

.....Respondents

* * * * *

Mr. Santosh Shetty, Advocate for the petitioner.

Mr. Rajesh Gehani a/w. Mr. Vikas Khanchandani, Advocate for the respondents.

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Coram :- Smt. R.P. SondurBaldota, J.

27th March, 2015.

P.C. :-

1). This petition is directed against the judgment and order dated 31st October, 2006 passed by the Labour Court, Mumbai in Application (IDA) No. 143 of 2004 filed under Section 33-C(2) of the Industrial Disputes Act. The petitioner was employed with Walchandnagar Industries Ltd. The Pune undertaking of that Company

was called Machine Tools Division (MTD). As per the MOU between Walchandnagar Industries Ltd and the petitioner, Machine Tools Division (MTD) became a division of the petitioner. Respondent no.1 continued to work at Ballard Estate, Mumbai as an employee of MTD. After the MOU, the Chairman of the petitioner on 28th August, 1988 notified that all the persons working in Ballard Estate, will be governed by the Rules and Regulations and service conditions of MTD with suitable revision. There has been revision in the salary of respondent no.1 from time to time.

2). In the year 1993, he raised a dispute as regards the revision and the arrears payable under the revision. He filed complaint (ULP) No. 1276 of 1991 through the Union. The dispute raised in the complaint was, however, settled and by the letter dated 4th February, 1997 respondent no.1 was paid a sum of Rs.1,00,000/- as one time compensation for the period 1st January, 1988 to 31st October, 1996. After accepting the amount of Rs.1,00,000/- by way of settlement of the dispute relating to revision of the salary, respondent no.1 filed application (IDA) No.193 of 2004 for recovery of sum of Rs.77,637/- as amount due to him after giving due credit to the amount of Rs.1,00,000/- received under the letter dated 4th February, 1997. Mr. Shetty, the learned Advocate appearing for the petitioner points out that,

having once accepted the amount of Rs.1,00,000/- as one time settlement in respect of the very dues, i.e. the dues for the period 1st January, 1998 till 31st October, 1996 respondent no.1 could not have filed application under Section 33-C(2) of the Industrial Disputes Act for recovery of the remaining amount of claim made by him. In any case, he submits that the provision of Section 33-C(2) being provision in the nature of execution, if there was any dispute as regards the amounts due to respondent no.1 by way of revision of salary, it was necessary for him to file appropriate application for adjudication of his claim. Unless, the claim is so adjudicated, there is no question of filing any application under Section 33-C(2) of the I.D. Act.

3). It is clear from the record that, the dispute as regards the amounts due for the period 1st January, 1988 to 31st October, 1996 was settled between the parties. Pursuant to that settlement, complaint No.276 of 1995 filed by respondent no.1 was withdrawn by him and the payment of Rs.1,00,000/- made to him by way of one-time settlement. In that circumstance, it is not open for respondent no.1 to once again claim the very amount, the dispute in respect of which stood settled. Considering the scope of enquiry under Section 33-C(2) if the amount of claim is disputed, it is necessary for the workmen to get the dispute adjudicated by filing appropriate reference.

4). The Labour Court lost sight of the scope of the provision of Section 33-C(2) of the I.D. Act and allowed the claim by holding that respondent no.1 was entitled to receive the claim made by him for the period January, 1988 till the year 1997. In the circumstances, the petition is allowed. Rule is made absolute in terms of prayer clause (a). The petitioner is at liberty to withdraw the amount deposited in this Court pursuant to the interim order dated 27th February, 2007 passed in this petition.

(SMT. R.P. SONDURBALDOTA, J)