

Com.A.No.517 of 2015
in C.P.No.378 of 1997

RAJIV SHAKDHER, J.

1. This is an application moved by the employees Union whereby, arrears of salary for a period of 11 months (i.e., from 01.09.1997 to 31.07.1998), to 89 employees, is sought.

2. Mr.Ramaiah, learned Official Liquidator has drawn my attention to the order of the Division Bench dated 29.09.2006 and the minutes of meeting dated 03.07.2007. The minutes of the meeting dated 03.07.2007, reflect the decision taken in a meeting held in the Chambers of the Official Liquidator.

2.1. Learned Official Liquidator submits that the employees of the company in liquidation opted for voluntary retirement, and that, thereupon, they were granted compensation, according to the scheme prevailing at the relevant point of time.

2.2. Learned Official Liquidator also states that the Division Bench in its order dated 29.09.2006, had also directed verification of records to determine as to whether the employees were entitled to a further sum of

Rs.50,000/- over and above the compensation received by them under the voluntary retirement scheme as a part of settlement with the management.

2.3. It is, thus, stated by the Official Liquidator that a decision was taken in the meeting held on 03.07.2007, with regard to not only the issue regarding the payment of Rs.50,000/- as also qua the subject of the arrears claimed by the applicant/employees Union.

2.4. Learned Official Liquidator says that in accordance with the decision taken, a sum of Rs.50,000/- was paid to the employees, and that, arrears of salary as claimed on behalf of the 89 employees could also be paid in accordance with their seniority, as per the relevant provisions of law including the Provisions of Section 529, 529A and 530 of the Companies Act, 1956.

3. Having regard to the above for the purpose of record, the relevant extract of the minutes of the meeting dated 03.07.2007, (in respect of the issues adverted to above by the learned Official Liquidator), are set forth hereafter:

"..... regarding the payment of Rs.50,000/-

Shri.N.G.R.Prasad, appearing for the workmen showed out calculation sheet prepared by management showing the mode/method of calculation of compensation to the workmen and this calculation sheet does not show a sum of Rs.50,000/- each have been paid to each worker. Beyond this no other record is available with Official Liquidator being the company in liquidation. Accordingly, it was agreed upon that each workmen shall be paid a sum of Rs.50,000/- over and above, the V.R.S. compensation already paid.

The second issue relate to the payment of arrears of wages for the period from 01.09.1997 to 31.07.1998 (11 months) the argument of Shri.N.G.R.Prasad, counsel for workmen being that the workmen were attending to the factory but they were not assigned the work and are entitled for arrears for the period of 11 months. Once again the calculation sheet of wages does not indicate whether the aforesaid period is taken care by allowing pay and allowances for the period of 11 months indicated above.

The absence of such indication in the calculation sheet entitles the workmen, the arrears of wages for 11 months and that is allowed....."

4. Clearly as per the minutes of meeting dated 03.07.2007, the employees are entitled to payment of arrears of salary for the period from 01.09.1997 to 31.07.1998, albeit, in accordance with the relevant provisions of law.

4.1. Therefore, the submission of the learned Official Liquidator is in consonance with the decision taken at the minutes of meeting dated 03.07.2007.

5. At this stage, after the aforesaid portion of the order was dictated, learned Official Liquidator states that in the process of adjudication he has already rejected the claim of the applicant and that no appeal has been preferred against the said order.

5.1. To be noted the details of the order passed by the Official Liquidator have not been conveyed to me.

6. In view of what is articulated above, by the learned Official Liquidator, in case any impediment is caused in the release of arrears of salary in accordance with law, the applicant employees union is given liberty to file an appeal along with an application for condonation of delay, if so required.

30.06.2016

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