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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13988 OF 2017

M/s. Brink's India Pvt. Ltd. & Ors.

... Petitioners.

vs.

Mr. Pandurang Bhagaji Choudhary
and 18 Ors.

... Respondents

Mr. Sudhir Talsania, Senior Advocate a/w. Mr. Jayesh Desai i/b. M/s. Desai & Desai Associates for the Petitioner.

Ms. Jane Cox a/w. Ms. Karishma Rao for Respondent no. 1 to 17.

CORAM : A.K. MENON, J.

DATE : 5th MARCH, 2018

P. C.

1. This petition challenges an order dated 12th October, 2017 in Complaint (ULP) No.162 of 2017 passed by the Sixth Labour Court, Mumbai and order in Revision dated 1st November, 2017 passed by the Industrial Court in Complaint (ULP) No. 110 of 2017. The challenge in the complaint is to the notice dated 19th September, 2017 by which the petitioner notified a scheme for retrenchment of workmen. The impugned order proceeds to grant relief without considering on merits the fact that notice dated 19th September, 2017 and 28th September, 2017 at Exhibit - C and Exhibit - D in this petition were followed by letters of termination addressed to each of the 19 respondents. Both learned counsel agree that although relief has been given, the effect of letters of termination, dated 3rd October, 2017

has not been considered either by the Labour Court or the Industrial Court. In the absence of any pleadings there was no challenge to the letters of termination and the impugned order could not have been passed. In the circumstances, it is appropriate that the matter is remanded for fresh consideration with liberty to the respondent to amend the complaint (ULP) No. 162 of 2017 / . In the circumstances, I pass the following order :

- (i) The impugned order dated 12th October, 2017 in Complaint (ULP) No. 162 of 2017 passed by the Sixth Labour Court and order dated 1st November, 2017 in Complaint (ULP) 110 of 2017 passed by the Industrial Court are set aside.
- (ii) The respondents are at liberty to move the amendment application seeking amendment to the Complaint(ULP) No. 162. of 2017 within a period of two weeks from the uploading of the order.
- (iii) If such application is made, the Labour Court shall consider the application for amendment expeditiously and in any event within four weeks of the same being filed. Liberty to apply for interim relief after amendment.
- (iv) The Labour Court shall proceed to decide the complaint, if amended without being influenced by any observations in terms of this Order.
- (v) Petition is disposed of in the above terms.
- (vi) No order as to costs.

(A.K. MENON, J.)