

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8583 OF 2019
(NRB Bearings Limited Vs. New Panther Kamgar Sena)

Mr.S.V.Dankh, Advocate for the petitioner.
Mr.Manoj D.Shinde and Mr.A.B.Waikos, Advocates for the
respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 17/07/2019

PER COURT :

1. Learned Advocates for the respective sides submit on their behalf and on instructions from their respective clients that they have no objection if this Court decides this proceeding.
- 2, The petitioner/Management is the First Party in Ref.(IT) No.1/2018, which is pending before the Industrial Tribunal, Jalna.
3. The petitioner Company is aggrieved by the order dated 13/03/2019 passed by the Industrial Tribunal directing the petitioner to file it's written statement in response to the statement of claim in the pending reference matter, which pertains to the charter of demands raised by the respondent/Union.

4. Learned Advocate for the petitioner submits that the petitioner has signed a long term settlement on 13/12/2017 with All Marathwada Kamgar Union. The petitioner believes that out of the 409 eligible workers entitled to the benefits under a long term settlement signed u/s 2(p) r/w Section 18(1) of the Industrial Disputes Act, 332 workers are the members of the AMKU. The respondent/Union, who is the second party union in the pending reference case, has about 77 members. The learned Advocate for the respondent/Union denies the figures quoted by the learned Advocate for the petitioner and submits that they have a majority.

5. Issue is as regards the pending reference before the Industrial Tribunal which is pursuant to a charter of demands raised by the respondent/Union. Pursuant to the charter of demands raised by the respondent/Union, the Office of the Deputy Commissioner of Labour, conducted a verification of membership on 20/12/2017. A failure report was submitted on 24/12/2017. The petitioner entered into a settlement with AMKU on 13/12/2017 and intimated the Office of the Deputy Commissioner, Labour on 14/12/2017. Compliance under Rule 62(4) of the Industrial Disputes (Bombay) Rules, 1957 has also been made in relation to the said settlement. The order of referring the matter to the Industrial Tribunal is dated

25/01/2018.

6. Learned Advocate for the petitioner submits, and rightly so, that there can be only one settlement in a factory. A settlement is a package Code for the workers working in the factory. It contains the benefits that are to be extended to the eligible members and also contains the obligations that are to be discharged by such members. I have no doubt that if there are more than one long term settlements in a single factory, between different group of workers having their affiliation with different unions, it would create unrest in the factory and the object of the I.D.Act of maintaining industrial peace and harmony, would never be fulfilled.

7. The petitioner has made an offer that if the members of the respondent/Union desire to accept the same terms and conditions, they are at liberty to issue a declaration, format of which is placed at page No.147 in the petition paper book. They may continue their affiliation to any particular Union and the Management is still willing to extend the benefits of the same settlement dated 13/12/2017, to all these members, notwithstanding their union affiliation. It is submitted that those who take the benefits of the said settlement will have to abide by the entire terms and conditions set out in the

settlement in letters and spirit.

8. The learned Advocate appearing on behalf of the respondent/Union submitted that it is a matter of survival of their Union. They cannot be subjected to the leadership of another Union. If the 3 lines in the declaration beginning from the 3rd line to the 5th line in the first paragraph are deleted, to be replaced by a statement that "I am presently the member of the New Panther Kamgar Sena", all the members of this Union are willing to accept the said terms of the settlement. This is without prejudice to their ongoing litigation with regard to application MRTU No.1/2015 pending before the Industrial Court at Jalna.

9. The learned Advocate for the petitioner is agreeable on instructions from Mr.Pramod M.Takwale, Divisional Manager – HR of the petitioner/Management, present in the Court. He, however, expresses a reservation that the new settlement was implemented from 13/12/2017 and all those workers, who signed the declaration and started working as per the norms of the settlement, were entitled to certain monetary benefits for having achieved the production norms prescribed in the said settlement, which is routinely calculated by the Management in accordance with the settlement. As

the members of the respondent/Union have not achieved the said norms, they would not be entitled to such monetary benefits. He clarifies that if they have worked to achieve any portion of such norms/percentage of such production norms in the past 1½ years, without accepting the settlement, their calculations will be made by the Management, strictly as per the terms of the settlement and the amounts will be paid to them as a reward for achieving this proportionate percentage of production norms. Learned Advocates for the respondent/Union are agreeable.

10. In view of the above, this petition is disposed off by recording the following statements :-

[a] The members of the respondent/Union will be at liberty to sign a newly drafted declaration form as noted above, by deleting the 3 lines and replacing the said 3 lines by the single statement noted above.

[b] A copy of such modified declaration form is placed on record, which is marked as Exh."X-1" for identification and a copy will be supplied to the learned Advocates for the respondent who may take Photostat copies and circulate amongst the members, duly signed by such members.

[c] Such declaration forms will be submitted to the Office of the

Manager (HR) on or before 31/07/2019.

[d] A copy of the settlement dated 13/12/2017 which is tendered to the Office of the Deputy Commissioner (Labour), is also placed on record, which is marked as "X-2" for identification.

[e] The settlement "X-2" would be made identically applicable to those members of the respondent/Union who issue a declaration and declare their acceptance.

11. Ref.(IT) No.1/2018 can therefore be disposed off. A copy of this order shall be placed before the learned Industrial Tribunal, Jalna on 03/08/2019, which is the scheduled date and the learned Member, Industrial Tribunal, Jalna shall merely answer the reference in terms of the settlement X-2 and the declaration X-1 and issue an award in Ref.(IT) No.1/2018.

12. Copy of the said award dated 03/08/2019 shall be forwarded to the Office of the Deputy Commissioner (Labour) for following the procedure as regards the publication of the said award in accordance with the judgment delivered by this Court in the matter of Dnyaneshwar S/o Anantrao Kulkarni Vs. Superintendent Engineer, Public Works Division, Osmanabad and others [2016(2) Mh.L.J. 144].

13. The above stated award shall be without prejudice to the pending application No.MRTU 1/2015.

(Ravindra V.Ghuge, J.)