

Santosh

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

WRIT PETITION NO. 3182 OF 2023

**SANTOSH
SUBHASH
KULKARNI**

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General Motors Employees Union ...Petitioner

Versus

General Motors India Pvt. Ltd. ...Respondent

Mr. Sanjay Singhvi, Senior Advocate, a/w Rahul Kamerkar,
Nitin Kulkarni and Aparajita Jha, for the Petitioner.

Mr. J. P. Cama, Senior Advocate, a/w Mr. Subin
Behramkamdin, Vijay Purohit, Pratik Jhaveri, Faizan
Mitthaiwala, i/b P&A Law Offices, for the Respondent.

CORAM: N. J. JAMADAR, J.

DATED : 18th APRIL, 2023

ORDER:-

1. The petitioner Union has preferred this petition assailing an order dated 13th December, 2022 passed by the learned Member, Industrial Court at Pune on an application (Exhibit-U73), whereby the said application preferred by the petitioner to adopt the evidence of Mr. Sandeep Shridhar Bhegade on behalf of the Union and himself at Exhibit-U21 as evidence on behalf of the employees, on merits, and allow the Union to file affidavit of individual employees only on the aspect of backwages, came to be rejected.

2. Heard Mr. Singhvi, the learned Senior Counsel for the petitioner and Mr. Cama, the learned Senior Counsel for the respondents.

3. In the impugned order, the learned Member, Industrial Court observed, *inter alia*, that it was the sweet will of the complainant to adopt the evidence of its witness on behalf the Union and all the employees and the Court would not dictate as to how many witnesses are to be examined and on what point. And that the complainant was at liberty to file affidavit of the employees on the point of backwages. The learned Member was, however, persuaded to reject the application as he was of the view that the application was filed to prolong the matter despite a direction by the Supreme Court to dispose of the complaint within a stipulated period.

4. Mr. Singhvi submitted that the prayers made in the application which came to be rejected were conducive to an expeditious disposal of the complaint. Having observed that it was the complainant's choice to examine the witnesses and adduce evidence the application could not have been rejected on the count that it was preferred with a view to delay the disposal of the complaint, urged Mr. Singhvi.

5. On a fair reading of the impugned order, it does not seem that the learned Member, Industrial Court, did not approve of the course proposed to be adopted by the petitioner. The learned Member correctly observed that it was for the petitioner to decide as to whose evidence it desired to adduce. In any event, the course proposed by the petitioner subserves the interest of expeditious adjudication of the complaint. The final order of rejection passed by the learned Member, Industrial Court, restrained the petitioner – complainant from adopting the said course of action.

6. In view of the above, I deem it appropriate to clarify that the impugned order shall not preclude the petitioner from adopting the evidence of Mr. Sandeep Shridhar Bhegade on behalf of the Union and himself at Exhibit-U21 as evidence on behalf of the employees, on merits of the complaint, and filing the affidavits of individual employees on the aspect of backwages only.

7. With aforesaid clarification the petition stands disposed.

[N. J. JAMADAR, J.]