

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

WRIT PETITION NO.5057 OF 2003

Bhartiya Kamgar Karmachari Mahasangh
and Another

...Petitioners

vs.

M/s. Bralco Metal Industries Limited
and Others

...Respondents

Mr. Ranjana Todankar, for the Petitioners.

Ms. Jaya Bagwe a/w. Mr. Anees Kazi, for Respondent No. 1.

Mr. Prakash Shinde and Mr. Dagdu Bagwe, the Secretary of of the petitioners.

Mr. Yogesh Agarwal, Director of Respondent No. 1 present.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 24, 2023

P.C.:

1. Heard the learned counsel for the parties.
2. The learned counsel make a joint statement that the parties have amicably resolved the dispute and consent terms have been executed. The learned counsel seek leave to tender the consent terms.
3. Leave granted.
4. Mr. Prakash Shinde, the Secretary and Mr. Dagdu Bagwe, the Secretary of petitioners and Mr. Yogesh Agarwal, the Director of respondent No. 1 are present. They admit the contents of the consent terms and execution thereof. It appears that the parties have executed the consent terms voluntarily and there is no

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(This is a corrected order as per Speaking to Minutes order dated 3rd May, 2023)

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coercion or duress. Hence, the consent terms are taken on record and marked X.

5. The terms of settlement incorporated in the consent terms read as under:-

1] The union and the workmen hereby acknowledge and accept that the manufacturing operations of the company situated at Gupta Mills Estate, Reay Road, Darukhana, Mumbai 400 010 have discontinued with effect from 18.12.1998. The Union and the Workmen tendered voluntary resignation resignation resigning w.e.f. 18.12.1998 i.e. the last working day in the format annexed at **Annexure E (total 1 page)**. The Respondent Company hereby accepts all the resignations. Consequently since 18.12.1998 there is no master and servant relationship between the workmen listed at Annexure- B (**total 1 page**) and C (**total 4 pages**) and the Respondent Company. The amount of dues payable under the present consent terms includes balance leave wages, gratuity, provident fund and ex-gratia inclusive of bonus. The Petitioner Union and the workers agree that till 18.12.1998 the workers have been paid their salaries. The Petitioner Union and the concerned workmen hereby agree and declare that upon receipt of the amount as per these consent terms they shall have no claims of any nature whatsoever against the Respondent Company either for reinstatement, employment or re-employment or monetary claim of any nature.

2] The Respondent agrees to fully waive the dues of the credit society.

3] The Petitioner Union and the workmen agree to withdraw the complaint before Smt. Shirin Lokhande in view of this settlement.

4] The Respondent Company shall amend the appeal

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no. 5 of 2017 pending before CGIT-1 to join / implead the Petitioner Union as party respondent which will be consented by the Petitioner Union. The Petitioner and Respondent shall jointly file an application before the CGIT-1 to dispose off the appeal in terms of these consent terms. In any case if required the Petitioner Union shall make positive submission before the CGIT-1 in appeal no.5 of 2017 to effect the appeal be disposed off by setting aside impugned order dated 7.06.2001 passed by the Assistant Provident Fund Commissioner.

5] In consideration of the above and taking into consideration the present amicable settlement, the Company hereby agrees to pay all the workmen totaling to 103 employees including deceased employees through their legal heirs covered in this settlement amount as mentioned in **Annexure C (total 4 pages)** to this settlement which includes gratuity, leave wages, ex-gratia including bonus which includes compensation towards provident fund. It is further stated that the company shall co-operate with the employees for withdrawal of their respective provident fund dues. It is further stated that the credit society dues have been waived by the company.

6] It is stated that if any amount towards wages if at all has been deposited by the company in any proceedings with any statutory authority, the same shall be claimed by the workmen. In case interest is accumulated on the said deposited wages, the same shall be received by the company. If it is found that no such amount was deposited by the respondent company then the same shall not be claimed by either the workmen or the Petitioner Union in any manner.

7] It is agreed that aforesaid payment mentioned in **Annexure (total 1 page) and C (total 4 pages)** is in full and final settlement of all the demands and claim of the workmen represented by the Union against the Employer M/S. Bralco Metal Industries Pvt.Ltd including employment, re-employment & reinstatement

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in service, provident fund, bonus and any other monetary claim. The Union and the workmen whose name are mentioned at **Annexure -B (total 1 page) and C (total 4 pages)** agree that upon receipt of the amount and signing of these consent terms, both the Union and the workmen shall withdraw all their complaints /disputes pending before any statutory authorities. Further the cheques of the workmen listed at Annexure C (total 4 pages) except the deceased employees are being handed over to the Union Representative who undertake to obtain signature on the receipt and these consent terms of the respective workers.

8] It has been agreed that as regards deceased employees, the Union shall identify the legal heirs of the said deceased employees so as to enable the Company to prepare and handover their cheques.

9] It is stated that of the 126 employees as listed at Annexure B (total 1page) and C (total 4 pages) (103 employees including deceased employees being settled), 23 employees whose names are mentioned in **Annexure - B** (total 1 page) are not traceable as on date shall be paid as mentioned in the said list at **Annexure - B** (total 1 page) which mentions the name of the said 23 employees and dues receivable by them. For convenience and better understanding, the names of the said 23 employees have been separately mentioned indicating their date of joining and the amount to be paid to the them so that there is no ambiguity later at the time as and when the said respective employees present themselves for claiming their dues

10] It is further agreed that hereinafter the Union and the workmen shall not raise any further demand and/or claim of whatsoever nature against the employer M/s. Bralco Metal Industries Pvt Ltd and its Directors as all their demands, disputes and monetary claims including employment, re-employment and reinstatement is being settled through these consent terms.

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11] It is further agreed that these Consent Terms shall be filed before the Hon. Bombay High Court referred herein and the matter pending in the Court shall be disposed being settled out of court amicably including the appeal pending before CGIT-1 and complaint pending before Smt. Shirin Lokhande, Additional Labour Commissioner, Bandra, Mumbai.

6. Evidently, the parties have worked out a comprehensive settlement of the dispute.

7. Hence, the petition stands disposed in accordance with the consent terms.

8. The undertakings given in the consent terms are accepted as undertakings to the Court.

(N. J. JAMADAR, J.)