

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7736 OF 2021

Manugraph Employees Association .. Petitioner
Versus
Manugraph India Ltd. Union No.1 .. Respondent

WITH
WRIT PETITION NO.2817 OF 2020

Manugraph India Limited Unit – 1 .. Petitioner
Versus
Manugraph Employees Association Unit – 1 .. Respondent

WITH
INTERIM APPLICATION NO.362 OF 2021
IN
WRIT PETITION NO.2817 OF 2020

Manugraph Employees Association Unit – 1 .. Applicant
IN THE MATTER BETWEEN:
Manugraph India Limited Unit – 1 .. Petitioner
Versus
Manugraph Employees Association Unit – 1 .. Respondent

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- Mr. Sanjay Singhvi, Senior Advocate a/w. Mr. Amit Singh, Ms. Shivani Deshmukh, Mr. Ghanshyam Thombre and Mr. Kabeer Pansare i./by Abhay Nevagi and Associates, Advocates for Petitioner in W.P.No.7736 / 2021 and Respondent in W.P.No.2817/2020.
 - Mr. Sudhir Talsania, Senior Advocate a/w. Mr. Sandeep Mutalik and Mr. Sandeep Mahadik, Advocates for Petitioner in W.P.No.2817/2020 and for Respondent in W.P.No.7736/2021.
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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 02, 2023

P.C.:

1. Heard Mr. Sanjay Singhvi, learned Senior Advocate for

Petitioner in Writ Petition No.7736 of 2021 and Respondent in Writ Petition No.2817 of 2020 and Mr. Sudhir Talsania, learned Senior Advocate for Petitioner in Writ Petition No.2817 of 2020 and for Respondent in Writ Petition No.7736 of 2021.

2. Writ Petition No.2817 of 2020 is filed by Manugraph India Limited (the Company) impugning the judgment and order dated 02.03.2020 which is at Exhibit-M to the Writ Petition passed by the Industrial Court, Kolhapur below Interim Application in Complaint (ULP) No.120 of 2019.

3. Writ Petition No.7736 of 2021 is filed by Manugraph Employees Association Unit – 1 (the Union) impugning the judgment and order dated 06.10.2021 which is at Exhibit-A to the Writ Petition passed by the Industrial Court, Kolhapur below Interim Application in Complaint (ULP) No.7 of 2020.

4. After hearing both the learned Senior Advocates and deliberating on the issues, it is directed that both impugned orders of the Industrial Court are stayed.

5. The issue involved in both the Complaints pertain to determination of age of retirement of the employees, whether it should be 55 years or 60 years.

6. Since both Writ Petitions arise out of interim orders and

parties are yet to lead their respective evidence, it would be expedient to direct the Industrial Court to dispose of both Complaints in a time bound schedule. Both sides agree to co-operate with the Industrial Court for disposal of both the Complaints in a time bound schedule.

7. Mr. Singhvi has expressed anxiety of the employees that the Company may not be able to discharge its liability in case the employees finally succeed in the matter. Therefore, the Company should be directed to deposit a substantial amount in this Court or in the Industrial Court to secure their claim. Mr. Talsania refutes the apprehension of the Union and the employees as baseless and unfounded.

8. Be that as it may, just with a view to dispel the apprehension of the employees it is directed that the Company shall file an affidavit of a responsible Officer disclosing the assets and liabilities of the Company to demonstrate that the company would be in a position to discharge its liability in case if it finally loses in the matter.

9. Considering the above, the following order is passed:-

- (a) Hearing of the Complaint (ULP) No.120 of 2019 and Complaint (ULP) No.7 of 2020 pending before the Industrial Court, Kolhapur is expedited and the Industrial Court shall dispose of both the Complaints as early as possible and in any case within a period of six

months from today;

- (b) Parties shall co-operate with Industrial Court and shall not take unnecessary adjournment;
- (c) During the pendency of the aforesaid complaints, the interim stay granted by this Court in the above Writ Petitions would continue to operate till disposal of the Complaint (ULP) No.120 of 2019 and Complaint (ULP) No. 7 of 2020;
- (d) The Company shall file the affidavit as set out in paragraph No.8 above within a period of one week from today;
- (e) It is clarified that in the Affidavit dated 01.11.2023, the Petitioner – Company has shown its *bonafides* and has given undertaking to secure the claim of members of the Respondent to the extent of Rs.10 crores as according to Mr. Talsania the computation and calculation is approximately to the extent of Rs.8 crores, however the same is refuted by Mr. Singhvi and his submission is that the computation and calculation according to the Union would be in excess of Rs.14 crores;

If that be the case the Petitioner – Company is directed to take cognizance of this fact. In view of the details of the gross assets stated in its Affidavit dated 01.11.2023 no further directions are passed to that effect. At the request of Mr. Talsania, it is clarified that this Affidavit dated 01.11.2023 is restrictive and restricted only to the subject matter of the present Writ Petition only and both parties agree that it shall not be referred to and relied upon in any other proceedings;

(f) Liberty to apply.

10. The above order is passed on the basis of draft Minutes of order (unsigned) tendered by parties mutually. The same is taken on record and marked 'X' for identification. It is clarified that clauses (e) and (f) are added by the Court additionally after hearing the parties.

11. Writ Petition No.7736 of 2021 and Writ Petition No.2817 of 2020 are disposed of in terms of the above order.

12. In view of disposal of Writ Petition No.2817 of 2020, pending Interim Application No.362 of 2021 is also disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]