

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

WRIT PETITION NO. 12819 OF 2024

Prakash Shankar Pawar

... Petitioner

Versus

M/S. Schneider Electric President Systems Ltd. ... Respondent

WITH

WRIT PETITION NO. 12823 OF 2024

Rajan Atmaram Gawade

... Petitioner

Versus

M/S. Schneider Electric President Systems Ltd. ... Respondent

WITH

WRIT PETITION NO. 12825 OF 2024

Sopan Maruti Hadvale

... Petitioner

Versus

M/S. Schneider Electric President Systems Ltd. ... Respondent

WITH

WRIT PETITION NO. 12826 OF 2024

Sunil Pandurant Kadam

... Petitioner

Versus

M/S. Schneider Electric President Systems Ltd. ... **Respondent**

WITH

WRIT PETITION NO. 12837 OF 2024

Shantaram Yamnaji Borhade

... **Petitioner**

Versus

M/S. Schneider Electric President Systems Ltd. ... **Respondent**

Mr. Prakash C. Kamble with Mr. Suraj V. Gadkari, for the
Petitioner.

CORAM : SANDEEP V. MARNE, J.

DATE : 12 SEPTEMBER 2024.

P.C. :

1) These Petitions are filed challenging the Awards dated 30 November 2023 passed by Labour Court, Pune answering the References initiated at the instance of the Petitioners in the negative and dismissing the same.

2) I have heard Mr. Kamble, the learned counsel appearing for Petitioners and have considered the submissions canvassed by him.

3) After having considered the submissions canvassed by the learned counsel appearing for Petitioners, it is seen that the Respondent-Undertaking has closed its manufacturing activity at Bhosari, Pune on account of insufficient orders to carry out the manufacturing activity with effect from 21 February 2020. The Respondent-Company accordingly gave letters of cession of service to the Petitioners on 21 February 2020 together with one-month notice pay, retrenchment compensation and other retirements benefits.

4) Petitioners complain that the closure has not been effected in accordance with law. Mr. Kamble would rely upon provisions of Section 25-O of the Industrial Disputes Act (**ID Act**) submitting that the procedure prescribed therein has not been followed. However, provisions of Section 25K of the ID Act would indicate that the provisions of Chapter V-B apply only to an industrial establishment in which not less than 100 workmen are employed on an average per working day for the preceding 12 months. It appears that in their Statement of Claim Petitioners did plead that Respondent-Company had 25 regular employees, 80 contract workers and 30 office cum administration workers. However, no evidence is led to prove engagement of 100 workers for the purpose of demonstrating application of Chapter V-B and Section 25-O of the ID Act. On the contrary, there are numerous documents on record to indicate that the company had not engaged 100 workers as on the date of closure. In the intimation given to the Deputy Director Industrial Safety and Health, the total number of workers on the muster roll of the factory at the time of closure was indicated as 30. It appears that the Union and all the workers entered into a settlement of 4 March 2020 and the said

settlement is signed by only 22 workers. There is thus absolutely no material to indicate that 100 workmen were employed in the establishment on the day of closure. Mr. Kamble has sought to rely upon factory's license issued by the State Government for employment of more than 150 and less than 500 workers. However, mere procurement license for employment of higher number of workers would not mean that the number of workers indicated in the license are actually employed in the establishment. What is required to be proved is actual employment of the workmen on the day of closure. Petitioners failed to prove that 100 workmen were employed at the establishment on the day of closure. Therefore, provisions of Section 25-O of the ID Act would not be attracted in the present case.

5) Since provisions of Section 25-O of the ID Act do not apply to the establishment, the retrenchment of the Petitioners was required to be effected after following the conditions prescribed in Section 25F of the ID Act. Before the Labour Court, Petitioners raised the grievance that notice in prescribed manner to the appropriate government was not served by the Respondent Company. It appears to be an admitted position that such notice under section 25(F)(c) of the ID Act was indeed not served on the appropriate government. However, the Labour Court has relied upon on the judgment of the Apex Court in ***Bombay Union of Journalists and Ors. Versus. The State of Bombay and Anr.***¹ for holding that provisions of Clause (c) of the Section 25-F of the ID Act cannot be treated as mandatory.

¹ AIR 1964 SC 1617

6) In the present case Petitioners have been paid all their legal dues on the date of cession of their services. To illustrate, one of the Mr. Prakash Pawar is paid amount of Rs.14,42,548/- along with letter dated 21 February 2020 including statutory bonus, notice pay, leave encashment, gratuity and retrenchment compensation. It appears that the union and the workers demanded further amounts from the Respondent-Company and accordingly after issuance of the letters of cession of service dated 21 February 2020, settlements were entered into between Respondent-Management and Union as well as workers on 4 March 2020 under which the Respondent-Company agreed to pay to each of the workman and additional exaggeration amount equivalent to 10 days of last drawn wages for every completed year of service and amount equivalent 15 days wages for every year of remaining service by treating the age of superannuation as 58 years. Accordingly, Petitioner Shri. Prakash Pawar has been paid additional amount of Rs.4,60,893/- in terms of the said settlement. The settlement dated 4 March 2020 is personally signed by all the Petitioners including Mr. Prakash Pawar. Petitioners cannot now turn around and challenge the closure.

7) After considering the overall conspectus of the case, I do not find any valid ground to interfere in the impugned award, Writ Petitions are accordingly rejected.

[SANDEEP V. MARNE, J.]