

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION NO. 160 OF 2024
IN
WRIT PETITION NO. 317 OF 2007**

GKW Ltd. ... Applicant

IN THE MATTER BETWEEN

Shramik Mahasangh ... Petitioner
versus

Board for Industrial &
Financial Reconstruction and Others ... Respondents

....

Mr.Dinyar Madon, Senior Advocate with Mr.Ashish Kamat,
Mr.Kingshuk Banerjee, Mr.Abhiraj Gandhi, Mr.Shyam Dasgupt and
Ms.Kanika Sharma i/b. Khaitan and Co. for the Applicant.

Mr.Arshad Shaikh, Senior Advocate i/b. Ms.Namrata Agashe and
Mr.Devash Malhotra for the Petitioner in WP No. 317 of 2007.

Smt.P.H.Kantharia, Government Pleader with Smt.Jaymala Ostwal,
Addl. GP for Respondent Nos. 3 and 6.

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**CORAM : RAVINDRA V. GHUGE &
M.M. SATHAYE, JJ.**

DATE : 21ST OCTOBER, 2024

P.C.:

1. On 11th October, 2024, we had heard the learned Senior
Advocates for the respective sides, for quite some time. Since the
possibility of a full and final settlement of the claims of the employees

seemed possible, that we granted time to the parties to explore the possibility and posted the matter to 18th October, 2024.

2. In the hearing on 18th October, 2024, after a long hearing, two options that were considered by the litigating parties were, (a) as to whether the matter should be referred to a trained Mediator at the High Court level to settle the compromise terms, or (b) whether the parties would leave it to the Court to consider their claims and make a suggestion.

3. The learned Senior Advocates, along with their briefing Advocates, on full instructions of their clients who were present in this Court, had jointly submitted that they would leave it to the Court to mention an amount and both the parties would accept the said amount as a full and final settlement of their legal dues with reference to the dispute originating from the cause for which the Petition was filed.

4. The learned Senior Advocate Shri Shaikh had stated that he would get the individual affidavits of 31 workers, who are the only litigants in this litigation, since all other co-employees have already settled their accounts voluntarily and had taken their full and final dues, years ago. Both the learned Senior Advocates, therefore, stated that

whatever is the amount that this Court may suggest, would be acceptable to the parties.

5. It was also stated by the learned Senior Advocate Shri Madon that, according to the company, an amount of Rs.88,00,000/-, which was deposited in this Court and was withdrawn by the 31 employees through the Petitioner- Union, would be the actual dues to be paid to them and there was nothing more that is required to be paid to any of these 31 employees, considering the provisions of the Industrial Disputes Act, 1947. Per contra, Shri Shaikh had submitted that the workmen have been litigating for almost 22 years and have spent years in unemployment. Their families have lived in penury. Some have passed away due to illness, without medical treatment due to lack of income. Hence, they have asked for damages

6. In the hearing today, Shri Madon drew our attention to the order passed by the learned Single Judge on 10th August, 2016, in Writ Petition No. 1419 of 2016, more particularly, paragraph 5 which reads as under :

“5 In the premises, the following interim relief, in my opinion, would be adequate to take care of interests of justice and it is ordered accordingly :

(I) The Petitioner shall deposit a sum of Rs.88 lakhs, representing the retrenchment compensation payable to 32 workmen, with this court within a period of four weeks from today;

(II) The Prothonotary & Senior Master shall permit the First Respondent union to withdraw this amount on behalf of 32 workmen whom it represents in the present petition without prejudice to the rights and contentions of the workmen;

(III)The Petitioner shall secure a sum of Rs.2 crores by furnishing a bank guarantee acceptable to the Prothonotary & Senior Master for a sum of Rs.2 crores for disbursement to the concerned workmen, in the event the petition is dismissed or payment is ordered in favour of the workmen in pursuance of the impugned order;

(IV)Subject to the payment of the sum of Rs.88 lakhs and the bank guarantee of Rs.2 crores, as above, the impugned order dated 23 March 2016 shall be stayed;

(V) The hearing of the petition is expedited;

(VI)Respondent No.1 waives service; and

(VII)The parties will be at liberty to mention the petition in the last week of September 2016 for fixing a suitable date of hearing of the petition.

He adds that the bank guarantee of Rs.2,00,00,000/-, has already been tendered in this Court.

7. The learned Senior Advocate Shri Shaikh, placed on record a ready reference chart of the claim amounts (3 pages), along with a list

of the 31 workers, who are litigating before us under the umbrella of the Petitioner, which is a recognised Union. The same is marked as ‘X-1’ for identification.

8. The learned Senior Advocate Shri Shaikh pointed out that if the order of the Industrial Court, which is the subject matter of challenge in Writ Petition No. 1419 of 2016, is considered and if the full wages till attaining the age of superannuation are granted to these 31 workers, amounts towards the provident fund’s Employer’s and Employee’s contributions, will also have to be added. He further adds that an amount of Rs.6,20,00,000/- is quoted by the Petitioner union, towards damages for hardships and irreparable losses. Nevertheless, he has left it to the Court for mentioning the final amount as a full and final settlement of the legal dues of the workers.

9. The learned Senior Advocate Shri Shaikh submits that 24 affidavits have been received by the recognized Union, comprising of 23 employees, including the legal heirs of some of these 23 employees and one by the Union, clearly indicating that they leave it to the Court and whatever compensation amount that may be ordered by the Court, is acceptable to them. He further submitted that further affidavits would be collected and if this Court mentions a figure as the full and final

settlement amount to be paid to these employees, they would prepare 'draft minutes of the order' and produce it before the Court within two days.

10. The learned Senior Advocate Shri Madon submitted that though the company has earlier deposited Rs. 88,00,000/- (which are withdrawn by these 31 employees) and has executed the bank guarantee of Rs. 2,00,00,000/-, that has also been tendered and though the company did not desire to pay anything more, he is under specific instructions from the representative of the company present in the Court that, the company would accept the figure quoted by the Court as a comprehensive settlement towards the full and final settlement of dues, in order to render a quietus to this litigation.

11. Considering the above and treating the amount to be paid as a full and final settlement of dues, by way of compensation, we have taken into account the details below the columns (column numbers are mentioned at page 3, which is a horizontal sheet/chart of the figures quoted by the Petitioner Union at Annexure **X-1.**).

12. Having considered all the columns, which mention the amounts towards full wages till superannuation, compensation towards

hardships and irreparable losses, keeping in view that the litigation between the parties dates back to 2002-2003 and all the other quoted amounts, we have quoted the figure of Rs. 8,00,00,000/- (Rs. 6 crores, towards the compensation package and Rs. 2 crores, towards hardships and agonies of tardy litigation) inclusive of Rs. 88,00,000/- deposited, as a full and final settlement of dues of these 31 workers. The Petitioner and the Company have expressed satisfaction and declare that they are accepting this settlement. They desire to jointly submit the 'Minutes of the Order', within 2 days. The Union agrees that the bank guarantee of Rs. 2,00,00,000/-, can be released after filing of the minutes of order.

13. Both the learned Senior Advocates, on instructions from the briefing Advocates as well as the representatives for the respective sides present in the Court, submit that they would tender the 'Draft minutes of the Order', on 23rd October, 2024 either at 2.30 pm or 4.00 pm.

14. In view of the above, list this Petition along with the Interim Application on 23rd October, 2024 at 2.30 pm.

(M.M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)