

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR

S.B. Civil Writ Petition No.15610/2011

(Shri V.D. Khandelwal & Ors. ***Versus*** State of Raj. & Ors.)

Date of Order :: 31st January, 2012

HON'BLE MR. JUSTICE M.N. BHANDARI

Mr.A.K.Sharma, Sr. Adv. With
Mr. Rachit Sharma, for the petitioners.
Mr.Amin Ali, for the respondent/s.

By the Court:

By this writ petition, a challenge has been made to the order dated 03rd August, 2011 whereby prosecution sanction has been granted against the petitioners pursuant to Section 29 of the Industrial Disputes Act, 1947 (for short "the Act of 1947"). It is precisely on the ground of non-compliance of clause 3, 9 & 10 of the settlement entered between the parties.

Learned counsel for the parties have admitted that main dispute is regarding non-compliance of clause 3 of the settlement at Annexure – 1 to the writ petition. The petitioners agreed to increase salary by Rs.21/- for each employee, out of which, payment of Rs.11/- was extended to the members of the respondent Union, thus dispute now remains for Rs.10/- out of Rs.21/-. It is stated that payment

of Rs.10/- would also be paid to the members of the respondent Union herein and in that case, there would be compliance of the settlement. In the aforesaid background, the prosecution sanction granted by the State Government may be quashed.

It is further submitted that members of the respondent Union are pursuing their claim before the Payment of Wages Authority (for short "the Authority") in regard to remaining amount of Rs.10/- as they were paid Rs.11/- out of enhanced amount of Rs.21/- to each employee. Accordingly, they may be restrained to pursue their claim before the Authority.

Learned counsel for the respondent/s submits that none of the member of the respondent Union has made claim before the Authority for difference of amount arising out of settlement. In any case, it may be clarified that members of the respondent Union will not press their claim for difference of amount of Rs.10/- before the Authority if the payment is made within fifteen days.

In view of the submissions made and keeping in mind the agreement of the petitioners to make payment of difference amount of Rs.10/- to each of the member of the respondent Union, this writ petition is disposed of on the following terms:

(i) the petitioner company will make payment of difference amount of Rs.10/- to each member of the respondent Union within a period of 15 days from today, if not already paid. This would be over and above the payment of Rs.11/- already paid to the members of the respondent Union. In the aforesaid circumstances, there would be compliance of Clause (3) of the settlement at Annex.1.

(ii) In case of compliance of direction at para (i), the impugned order dated 03rd August, 2011 will stand set aside automatically.

(iii) To look into as to whether the payment, as directed above, has been made or not, the writ petition would be listed after three weeks.

(iv)Learned counsel for the respondent Union admitted that no claim has been made for Rs.10/-, i.e., the difference of amount payable to the members of the respondent Union pursuant to the Clause (3) of the settlement, accordingly it is clarified that no claim in regard to the difference of amount pursuant to Clause (3) of the settlement would be pressed by the respondent Union before the Authority, if it has been claimed.

(v)In case of any difficulty in making payment as directed in para (i), i.e., if the employees of the respondent Union refuse to accept the same, the petitioners are directed to deposit said amount with the Payment of Wages Authority within aforesaid time. The Authority is directed to release the same in favour of the members of the respondent Union.

(vi)The respondents have agreed not to press prosecution in regard to other issues.

The Registry is directed to list this case after three

weeks to see compliance of this order.

(M.N. BHANDARI), J.

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preety, Jr.P.A.

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Preety Asopa
Jr.P.A.