

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JANUARY 2016

BEFORE

THE HON'BLE MR. JUSTICE BUDIHAL R.B.

CA NO.526/2015
IN
COP NO.166/2001

BETWEEN:

SRI.NISSAR AHAMED
S/O T. MOHAMMED HUSSAIN,
AGED ABOUT 72 YEARS,
R/O LAWYER ROAD, K.B.EXTENSION,
DAVANGERE.

...APPLICANT

(BY SRI.MALLIKARJUNA.G. CONTRACTOR, ADV.)

AND:

THE OFFICIAL LIQUIDATOR,
THE MYSORE KIRLOSAKAR LTD.,(IN LIQN.),
12TH FLOOR, RAHEJA TOWERS,
M.G.ROAD,
BENGALURU.

...RESPONDENT

(BY SRI.K.S.MAHADEVAN AND V. JAYARAM, ADVS. FOR
O.L)

THIS COMPANY APPLICATION IS FILED UNDER RULE
164 R/W 6 & 9 OF THE COMPAINES (COURT) RULES, 1959,
PRAYING TO SET ASIDE FORM NO.69 AND ISSUE
DIRECTIONS TO THE OFFICIAL LIQUIDATOR TO RE-
ADJUDICATE THE CLAIMS OF THE APPELLANT BY WAY OF

ADMITTING CLOSURE COMPENSATION AND GRATUITY IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

THIS COMPANY APPLICATION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

This appeal memo is presented under Section 164 of the Company Rules, 1959 requesting the Court to set aside the Form No.69 and issue direction to the Official Liquidator to re-adjudicate the claims of the appellant by way of admitting closure compensation and Gratuity.

2. Brief facts leading to the filing of this appeal memo are that appellant was the ex-employee of the Mysore Kirloskar Ltd., Harihara. The erstwhile company was declared lock-out in the year 2001 and as per the report submitted by the Board of Industrial Finance Reconstruction i.e., B.I.F.R. this Court was pleased to pass an order of winding up and on 01.04.2004 this Court had appointed the Official Liquidator to settle the assets and liabilities of the company. Accordingly, the Official liquidator took charge of the company during the year 2004 and made the inventory of the company

movable as well as immovable properties put in to public auction in the year 2005. But the successful bidder fail to deposit the bid amount and the confirmation of sale was cancelled. The Official Liquidator in compliance of order of this Court offer claims from the workmen creditors and consequent to same, the applicant also submitted his claim before the Official Liquidator. The Official Liquidator adjudicated the same and issued Form No.69 by way of admission and rejection of the claim. Annexure- A is produced in that regard.

3. In Form No.69 the Official Liquidator not admitting the closure compensation and the gratuity. Gratuity is concerned the Official Liquidator gave information to collect the gratuity before the Mysore Kirloskar Employees Gratuity Fund Trust. Hence, the appellant approached this Court. So far as the claim regarding the closure compensation is concerned, the matter has been already decided by this Court in CA No.1382/2012 in COP No.166/2010. Consequently, the appellant is entitled to closure compensation but so far

as the gratuity amount is concerned this Court has already observed that it is for the applicants to make necessary application before the Mysore Kirloskar Employee Gratuity Fund Trust to recover the said amount. In case, if the Trust declines to make payment of the gratuity to the applicants, on any reason, then in that case the applicants can approach this Court. With this observation the application is disposed of.

**SD/-
JUDGE**

DR
Ct-sm