
(2016) 05 SC CK 0056

In the Supreme Court Of India

Case No : Civil Appeal Nos 4858-4859 of 2016 (@ Special Leave Petition (C) 35984-35985 of 2015)

Ghanshyam Sukhdeo Gaikwad and Ors

APPELLANT

Vs

Bajaj Auto Ltd. & Ors.

RESPONDENT

Date of Decision : 05-05-2016

Acts Referred:

Constitution of India, 1950 — Article 133

Citation : (2016) AIR(SCW) 2255 : (2016) 4 AIRBomR 265 : (2016) 3 AIRJharR 852 : (2016) AIRSC 2255 : (2016) AllSCR 1383 : (2016) 2 ApexCourtJudgments(SC) 299 : (2016) 4 BCR 270 : (2016) 2 CLR 568 : (2016) DNJ 632 : (2016) 149 FLR 961 : (2016) 5 JT 53 : (2016) 2 KCCR

Hon'ble Judges : Kurian Joseph; Rohinton Fali Nariman, JJ.

Bench : Division Bench

Advocate : Dr. R.R. Deshpande, Advocate, for the Appellant; Ms. Mukti Chowdhary, Advocate, for the Respondent

Final Decision : Disposed Of

Judgement

Kurian, J. - Leave granted.

2. The appeals have a chequered history. The appellants started the litigation way back in the year 1991 by approaching initially the Labour Court and thereafter, the Industrial Court at Pune. The Labour Court dismissed their complaint. The Industrial Court remanded the matter to the Labour Court, which was pursued by the Management before the High Court. The High Court set aside the orders of the Labour Court and the Industrial Court by consent, and the matter was remanded to the Labour Court by order dated 09.04.1996. The Labour Court, by order dated 12.12.1997, dismissed the complaint. The appellants pursued the matter before the Industrial Tribunal. The Industrial Tribunal allowed the complaint and directed reinstatement of the workmen, however, without backwages, by its order dated 22.01.1998.

3. Both sides, feeling aggrieved, approached the High Court of judicature of

Bombay, which has led to the impugned Judgment and Order dated 07.05.2015, by which the High Court has dismissed the writ petition filed by the appellants and allowed the writ petition filed by the Management, holding that the retrenchment was in order.

4. Thus aggrieved, the workmen are before this Court in these appeals.

5. We have heard the learned counsel on both sides extensively. During the course of hearing, it was noticed by this Court that in the year 2007, one of the appellants (according to the learned counsel for the Management, all the appellants) was offered Voluntary Retirement (VRS), by which Scheme, the appellant would be receiving an amount of RS. 20,40,981/-, inclusive of Provident Fund and Gratuity. It appears that the workman was not happy with the offer. According to Mr. Sanjay Singhvi, learned senior counsel appearing for the appellants, some of them were not offered the said Scheme.

6. Be that as it may, it is not in dispute that all the appellants have been getting regular wages ever since 2002, as applicable to permanent workers. According to Mr. Singhvi, learned senior counsel, the wages of regular workers did not actually include certain allowances. It is also not in dispute that the Management has not been extracting any work from the appellants since April, 2003, though according to the appellants, they have been reporting everyday for work and they have been sitting in the premises of the Company only.

7. Having regard to the background of the litigation, having regard to the fact that thousands of employees have been discharged on VRS by the Management and having regard to the fact that out of the 65 people who pursued the litigation, 59 people have already gone on VRS or otherwise, and having regard to the age factor of the appellants, we are of the view that the interest of justice would be advanced if the appellants are paid a lump sum amount towards settlement of all their dues. Though neither the Management nor the workmen could agree on the offers made from either side, having regard to all the aspects which we have referred to above, we feel that to do complete justice between the parties, it will be appropriate that the appellants are given an amount of RS. 10 Lakhs (Rupees Ten Lakhs) each. The said amount of RS. 10 Lakhs will be paid to the appellants within six weeks from today and in case of default in making the payment, the amount shall carry interest at the rate of 18% from the date of the award passed by the Industrial Tribunal.

8. We make it clear that the said amount of RS. 10 Lakhs will not include the claim of the workmen for Gratuity and Provident Fund. We also clarify that the Gratuity will be calculated on the basis of the wages drawn by the workmen as of now and with continuous service till today.

9. In view of the above observations and directions, the appeals are disposed of with no order as to costs.

10. It is made clear that we have invoked our special jurisdiction under Article

142 of the Constitution and, therefore, this Judgment will not be treated as a precedent.