
(2017) 06 GUJ CK 0056
In the Gujarat High Court
Case No : 14887 of 2004

M.C. Parmar & 4

APPELLANT

Vs

State of Gujarat & 1

RESPONDENT

Date of Decision : 14-06-2017

Acts Referred:

Constitution of India, Article 16 -
Dissolution of a District or a Regional Council
Companies Act, 1956, Section 456, Section 457 - Custody of companys property. - Powers of
liquidator.

Citation : (2017) 06 GUJ CK 0056

Hon'ble Judges : K.M. Thaker

Bench : Single Bench

Advocate : Nirzar S. Desai, Swapneshwar Goutam, H.S. Munshaw

Final Decision : Allowed

Judgement

1. Heard Mr. Desai, learned advocate for the petitioners, Mr. Munshaw, learned advocate for the respondent No.2 - corporation and Mr. Goutam, learned AGP for the respondent - State. Mr. Gori, learned advocate for the respondent is not present. 2. In this group of petitions, learned advocate for the petitioners and learned advocates for the respondents have jointly declared that the facts involved in all cases are similar and that the petitioners have prayed for similar and identical relief in all cases. The contentions and defence raised by the petitioners and respondent - State Government and respondent - corporations are also same and common in all cases. Therefore, the captioned petitions are decided by this common judgment. 3. In view of submission and declaration by learned advocate for the petitioners that the relief/s prayed for are similar illustratively, the relief prayed for by the petitioners in Special Civil Application No.14804 of 2004 is taken into account. In the said petition, the petitioners have prayed, inter alia, that: " 9(B) Your Lordships may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ,

order of direction; (i) quashing and setting aside the orders dated 30.10.2001 and 4.10.2002 passed by the respondents; (ii) direct the respondents, their agents, servants and subordinate officers to protect the pay scale of the petitioner and to consider the past services of the petitioners rendered by them under G.S.T.C. for the purpose of benefits of increment and higher pay scale and any other monetary benefits to which they are entitled. (iii) direct the respondents, their agents, servants and subordinate officers to pay the arrears of the 5th Pay Commission from 1.1.1996 to the date on which it was actually required to be given to the petitioners with interest. (iv) direct the respondents, their agents, servants and subordinate officers to give the petitioners the benefits of gratuity, E.L., bonus, L.T.C. etc. by taking into consideration the past services of the petitioners rendered by them with G.S.T.C. also.: 4. So far as factual background is concerned, it has emerged from the record that the petitioners were serving with the Gujarat State Textile Corporation ["GSTC" for short]. 4.1. The said corporation was ordered to be wound up by the decision dated 6.2.1997 in Company Petition No.205 of 1996 with Company Application No.266 of 1996. The relevant direction in the order dated 6.2.1997 are found in paragraph No.4 of the said decision, which reads thus: "4. I therefore, order that the Gujarat State Textile Corporation Ltd., is hereby wound up and the O.L. of this court is appointed to take charge of possession of all the properties and assets of the said company and said O.L. is to associate with the Gujarat Industrial Development Corporation as his agent under Section 457(2)(v) of the Companies Act for the purpose of preservation, protection and disposal of property and said Agent is to act under the instruction of O.L. In the said winding up proceedings, O.L. has to exercise all the powers under Sections 456 and 457 of the Companies Act and in case of difficulties, he has to approach this Court. The Gujarat Industrial Development Corporation while acting as an agent of O.L., is not to claim any remuneration from the O.L." 4.2. It is claimed by the petitioners that when the corporation was taken up in liquidation, the respondent corporation and State Government offered retirement scheme by way of CRS/ VRS. 4.3. According to the case of the petitioners, certain employees opted for voluntary retirement under the Scheme whereas about 14 employees chose to continue with the corporation. 4.4. It is claimed that, subsequently, the employees who did not opt for VRS and had chosen to continue with the corporation were offered appointments with other corporation. 4.5. In pursuance of the said offer/decision, the petitioners in this group of petitions came to be appointed with different corporations e.g. Gujarat State Handicraft Development Board, Gujarat State Khadi Gramodhyog Board, Gujarat State Agriculture Development Board, Gujarat State Soil Work Arting Board, etc. i.e. the respondent in captioned petitions. 4.6. It is also claimed that when the petitioners came to be appointed by said other corporations, they were appointed as fresh employees by virtue of fresh appointment orders and their services were not treated continuous and their pay/pay scale in the GSTC was not protected. 4.7. The appointment orders issued by the said other corporations are placed on record by the petitioners. The said appointment orders are, more or less, on the

same lines which, briefly stated, bring out that the persons are engaged as fresh employees and they were taken up on probation for the period prescribed under the relevant rules and the said persons were taken up in the pay scale attached to the post on which they were appointed by said other corporations. Mr. Munshaw, learned advocate for the respondent Board in Special Civil Application No.14804 of 2004 would submit that factually, the said petitioners had submitted a letter requesting the corporation to take them in service in pay scale of Rs. 950. Be that as it may, the fact remains that the concerned persons came to be appointed as fresh appointees by virtue of appointment orders. 4.8. After having accepted the appointment as well as the terms and conditions prescribed vide appointment orders, the petitioners instituted present petitions with the claim that their past service and/or salary with GSTC should not be wiped out and appropriate order for protecting past service i.e. for treating their service continuous and pay protection should have been passed. It appears that the said request came to be rejected by the respondent State vide orders dated 30.10.2001 and 4.10.2002. 4.9. The said orders are under challenge in present petitions. The petitioners have also prayed for direction that continuity of service and pay may be protected. In this backdrop, captioned petitions have been instituted. 5. Mr. Desai, learned advocate for the petitioners submitted that when the corporation was wound up, retirement scheme was offered to the employees. Certain employees opted for the said scheme whereas the petitioners (certain other about 13 employees) did not accept the said scheme and preferred to continue with the corporation. 6. Mr. Desai, learned advocate for the petitioners have further alleged that though present petitioners have not opted for retirement scheme and they had continued with the corporation, the petitioners were not paid any amount including retiral dues like gratuity, provident fund, leave encashment, etc. Mr. Desai, learned advocate for the petitioners, further contended that the persons who opted for retirement scheme were paid benefits in accordance with the retirement scheme. Moreover, when the State Government subsequently framed the policy and decided to appoint/absorb surplus employees in other corporations, the said employees were offered appointment in other corporations in accordance with the terms and conditions of the GR dated 27.11.1997. Mr. Desai, learned advocate for the petitioners further contended that though the petitioners stand on better footing, inasmuch as they had continued with the GSTC and had not severed their relations with the corporation and they were not paid any amount of gratuity, provident fund, leave encashment, etc., they are deprived of similar benefits which came to be granted to the persons who opted for retirement scheme and received the benefits flowing from the retirement scheme. Learned advocate for the petitioners claimed that the said employees (i.e. who had opted for retirement scheme) upon their absorption in other corporations came to be favoured with benefit of protection of continuous service and pay protection. Learned advocate for the petitioners would submit that similar benefits should be extended to the petitioners, however, by virtue of impugned orders, the said benefits have been denied to the petitioners. 6.1. Mr. Desai, learned advocate for the petitioners

further submitted that the impugned orders are nonspeaking and unreasoned orders and the authorities have not recorded any reasons, much less the reason or ground on account of which the petitioners have been discriminated and the benefits granted to the employees of the same corporation (who opted for retirement scheme) are denied to them. 7. Mr. Munshaw, learned advocate (for the corporation in Special Civil Application No.14804 of 2004) and Mr. Goutam, learned AGP, jointly submitted that the petitioners are entitled for benefits on the strength of GR dated 27.11.1997 because they were appointed in other corporations before the GR dated 27.11.1997 came to be issued and that therefore, they cannot claim benefit under the said GR. Learned advocates for the respondents also submitted that the petitioners have accepted the orders of appointment and thereby they accepted to be appointed as fresh employees on the terms and conditions mentioned in the appointment letter including the condition related to salary and that therefore, the petitioners subsequently cannot raise any dispute with regard to the conditions of appointment. Having accepted the terms of appointment and after having derived benefits of appointment order, they are estopped from raising any other demand contrary to the order of appointment. The learned advocates for the respondents also relied on the facts and details mentioned in reply affidavit. In Special Civil Application No.14804 of 2004, the Gujarat State Handlooms & Handicrafts Development Corporation has filed affidavit and stated, inter alia, that: "1. It is most respectfully stated that all the averments and allegations made by present petitioners with regard to various benefits are baseless and far from truth. It is stated that the respondent No.2 has given all the benefits as envisaged under the Government policy. It is most respectfully stated that as admitted in the present petition they were the employees of Gujarat State Textile Corporation Limited and on decision of its being wound up by the Government of Gujarat through its Industries & Mines Development issued instructions on 08/10/1996 to various Government Corporations for absorption of such surplus staff members, if possible, and a copy of the letter dated 08/10/1996 is annexed herewith and marked as Annexure-A. So far as the respondent No.2 is concerned, a letter dated 21/03/1997 was received from the Government of Gujarat for absorption of in all five employees against backlog of schedule cast employees and a copy of the said letter is annexed herewith and marked as Annexure-B. Thereafter, on 11/04/1997 the present petitioners made an application to the respondent No.2 for their appointment in the Corporation under pay scale of Rs. 950 Rs. 1500/on the basis of letter dated 21/03/1997 issued by the Government of Gujarat and a copy of the said letter dated 11/04/1997 is annexed herewith and marked as Annexure-C. It is stated that subsequently the petitioners herein were issued letters giving offer of appointment and in the said letters it was categorically pointed out that initially the appointment would be on probation with the lowest pay of Rs. 950/in the pay scale of Rs. 950Rs. 1500/and a copy each of such letters duly signed by the Petitioners is annexed herewith and marked as Annexure-D (Collectively). Subsequently, the petitioners were issued appointment letters in the year 1997 and from the kind perusal thereof it would

be clear that the said appointment is to be considered as fresh appointment in the Corporation and the initially the appointment would be on probation with pay of Rs. 950/in the pay scale of Rs. 950Rs. 1500, and the copies of appointment orders are annexed herewith and marked as Annexure-E (Collectively)." 7.1. The Under Secretary (Industries & Mines Department) has also filed affidavit and stated, inter alia, that: "8. I humbly say and submit that, in light of Gujarat State Textile Corporation Employee's Voluntary Retirement Scheme, an agreement arrived between State Government, representatives of Labour Union and the GSTC Ltd. On 31st August, 1996. A copy of the said agreement is annexed herewith and marked as Annexure-R-I to this affidavit in reply. 9. I humbly say and submit that, in view of the said agreement, the Chairman and Managing Director, Gujarat State Textile Corporation had introduced Voluntary Retirement Scheme for the employees of the said Corporation on 01.10.1996. A copy of the Voluntary Retirement Scheme dated 01.10.1996 is annexed herewith and marked as ANNEXURERII. 10. I humbly say and submit that, looking to the terms and conditions of Voluntary Retirement Scheme, there was no provision for continuance in the job or any liability for the same. Therefore, there are no such rights to the present petitioners. Even though, the State Government has shown the positive attitude and requested the respective Board/Corporation to absorb the Class III and Class IV employees sympathetically vide Industries and Mines Department letter dated 08.10.1996. A copy of the letter dated 08.10.1996 is annexed herewith and marked as Annexure-R-III. 11. I humbly say and submit that the employees shown in the Statement-A all 34 employees getting benefits of Pay protection of Pay. Out of 34 employees, 22 employees getting benefits of protection of pay through their respective Board/Corporation willingly. Whereas as 12 employees also enjoy such benefit who were absorbed through surplus cell of Finance Department Under the Scheme formulated by Finance Department vide Government Resolution dated 27.11.1997. A list 12 employees is as per Statement-D and the copy of the same is enclosed herewith whereas, employees shown in the Statement-B total 32 employees are not getting such benefit because they were absorbed prior to the scheme introduced by Finance Department. The issue, of remaining employees was considered by Government but could not be approved because of all these employees absorbed in various Board/Corporations prior to the policy framed by Finance Department Vide Circular No. JNV/1097/413/A, Dated 27th November, 1997. A copy of the Circular is Annexed herewith and marked as Annexure-R-IV." 8. The substance and tone of the affidavits is the same as voiced by Mr. Munshaw, learned advocate, and Mr. Goutam, learned AGP, that the employees have accepted terms and conditions of the appointment order and the said order and/or retirement scheme do not have any provision permitting protection of continuity of service and/or protection of pay. It is also emphasized that the employees came to be appointed in other corporations only by way of sympathetic consideration so that the employees of the GSTC may not be rendered jobless and that therefore also, the demand by the employees are not justified. 9. In his rejoinder, Mr. Desai, learned advocate for the petitioners placed reliance on the decision dated 30.6.2014 in Special

Civil Application No.524 of 1999 and the decision dated 22.4.2016 in Special Civil Application Nos.1858 of 2011 and 4166 of 2011. He submitted that in the decision in Special Civil Application No.524 of 1999, the Court considered similar case and claim of the employees of Fisheries Development Corporation. According to the learned counsel for the petitioners the facts of petitioners' case are similar to the case of employees in Fisheries Development Corporation. He further submitted that in the decision in case of Special Civil Application Nos.1858 of 2011 and 4166 of 2011, the Court considered the claim and grievance raised by the employees of the very same corporation in which present petitioners were employed i.e. GSTC. Mr. Desai, emphasized the fact that in the decision dated 22.4.2016, the Court considered identical facts and circumstances with only difference that the employees concerned in the said case (decision dated 22.4.2016) are the persons who had opted for retirement scheme and were declared surplus. Mr. Desai, learned advocate for the petitioners reiterated his contention that the petitioners stand on better footing because they had not severed their relations with the corporation and continued with the corporation until their appointment with other corporations. 10. I have considered the rival submissions. I have also considered the impugned orders dated 30.11.2001 and 4.10.2002 as well as GR dated 27.11.1997, fresh appointment orders issued qua present petitioners and the decision in Special Civil Application No.524 of 1999 as well as the decision in Special Civil Application Nos.1858 of 2011 and 4166 of 2011. 11. On examination of the order in Special Civil Application Nos. 1858 of 2011 and 4166 of 2011, it has emerged that the petitioners in cited decision and petitioners in present petitions are employees of same corporation. In the said two petitions, this Court took into consideration the decision in Special Civil Application No.524 of 1999 and decided similar claim and issue which the petitioners have raised in present petitions. Therefore, it will be appropriate to take into account the observations by the Court in paragraph No.3.1 of the decision dated 22.4.2016. In said paragraph No.3.1, the Court has observed, inter alia, that: "3.1 The petitioners were serving with the Gujarat State Textile Corporation Ltd. The said Corporation came to be wound up in the year 1997. Since the Corporation went in liquidation, the petitioners opted for voluntary retirement. The voluntary retirement was sanctioned. Later on, they came to be reappointed with the Gujarat Rural Industries Marketing Corporation Ltd. and the Gujarat State Leather Industries Development Corporation Ltd. respectively. It appears that the Gujarat State Leather Industries Development Corporation Ltd., later on, came to be merged with the Gujarat Rural Industries Marketing Corporation in March, 2001. Thus, it appears that some of the petitioners are serving with the Gujarat Rural Industries Marketing Corporation Ltd. and some with the Gujarat Water Supply & Sewerage Board on the identical terms and the conditions. The short point raised in these two writ applications is with regard to the continuity of service and pay protection." 11.1. Having taken note of the said facts, the Court took into account the affidavit filed by respondents in the said cases. 12. After taking into account the affidavits and decision in Special Civil Application No.524 of 1999, the Court observed in the decision dated 22.4.2016

that: "5. My attention has been drawn to Annexure-R-V, which is at page 96. The said annexure is along with the affidavit in reply filed on behalf of the State Government. A perusal of the same would indicate that all the petitioners came to be reappointed in the other Corporations in the year 1998. If that be so, then the question is why should they not get the benefit of the circular of the State Government dated 27th November, 1997. The circular referred to above makes the picture very clear. The State Government took a policy decision that all those employees rendered surplus on account of the Corporation being winded up, they would be absorbed in the other Corporations and their pay would also be protected. In short, the earlier service with the Corporation having got wound up, would be taken into consideration. 6. A learned Single Judge of this Court had an occasion to consider almost an identical issue in the case of Gujarat Fisheries Development Corporation Ltd. v. Government of Gujarat & Ors., Special Civil Application No.524 of 1999, wherein the learned Single Judge considered the Government Resolution dated 27th November, 1997. I may quote the observations made by the learned Single Judge as contained in paragraphs 11 to 18 as under; 11. Having given thoughtful consideration to the first issue as aforesaid what is required to be appreciated is that an employee/officer may during his employment receive various benefits including higher grade payscale as per the various Government resolutions. Normally higher grade is offered to remove stagnancy in absence of promotional avenues. Such right to receive higher payscale having been crystalised and consumed immediately on compliance with the Government Resolution offering such higher payscale, the question is whether subsequent policy of the State Government can be construed as withdrawing such benefits retrospectively as if it was not given to the employees at all. A close scrutiny of impugned resolution indicates that it intends to protect the last pay drawn by surplus incumbents of erstwhile corporation. Reading the impugned resolution as canvassed by learned AGP would nullify the benefits sought to be given to such employees. 12. True that the policy intends to see that the surplus incumbents can be reemployed as far as possible and that the State may have come to the rescue of such incumbents so that they are not rendered jobless. However, had the surplus incumbent opted for voluntary retirement, they would not have been deprived of the higher payscale and, thus, the policy tends to discriminate the two set of similarly situated employees. The argument is that the surplus employees have accepted all the conditions of the resolution with open eyes and therefore, they have now no reason to complaint. In the opinion of this Court in public employment, the State cannot take advantage of the weakness of its employees inasmuch as the State is answerable to various constitutional provisions including Article 16 of the Constitution of India. 13. In the opinion of this Court rights and liabilities of an employee as on the date of closure of the corporation are required to be considered and adjustments are to be made only in existing conditions of service. It cannot pierce into the rights consumed and crystalised. Condition no. 5 of the circular therefore, is required to read in the manner as would rule out the arbitrariness and discrimination. So read, the said condition only mean that the surplus

incumbent will have to give up the higher grade pay scale and not the pay fixed in such higher grade pay scale before the closure of the corporation. 14. So far as the grievance as to non-grant of 5th pay commission to the surplus incumbents is concerned, no substance is found in such arguments inasmuch as it is not the case of the petitioner that the erstwhile corporation which was an autonomous body has ever accepted the recommendation of the 5th pay commission and therefore, just because such recommendation were accepted by the State Government, the employees of the corporation would not automatically get such rights. At this stage the learned AGP on instructions from Under Secretary states that even to others who retired voluntarily, the benefits of 5th Pay commission for period they were serving with the corporation has not been extended so far. 15. Additionally, it appears that a decision to close the corporation was taken on account of financial crunches faced by the corporation. In such a scenario, it will be unreasonable to ask the corporation to bear extra burden. Learned counsel for the petitioner however, relied upon *Haryana State Minor Irrigation Tubewells Corporation v. G.S. Uppal*, 2008(3) S.C.T. 506 : AIR 2008 SC 2152 and *State of Maharashtra v. Manubhai Pragaji Vashi and Ors.* AIR 1996 SC 1 wherein the Hon''ble Supreme Court ruled that financial crunches cannot be a reason for depriving the benefits due to the employees. In none of the cases before the Hon''ble Supreme Court the facts and circumstances were similar to one on hand, ie closure of a institute or a corporation. Therefore, none of the said cases help the petitioner. 16. Similarly, the grievance as regards bonus also cannot be acceded since, the corporation was closed on account of financial crunches faced by it and therefore, it cannot be asked to bear extra burden. 17. Before closing the judgment it is to be noted that surplus incumbent has no grievance that they have not been paid the salary and other benefits in accordance with recommendation of the 5th and 6th pay commission from the date they have joined their new assignments and, thus, deprivation of such benefits was only for a short period of their service with the corporation. 18. In view of above, the petition partly succeeds. It is held that the erstwhile employees be the surplus incumbents of the GFDC are entitled to protection of their pay in the higher payscale if any as may have been drawn by them on the date of closure of the corporation. Accordingly such surplus incumbents shall be paid the consequential benefits within three months from the date of receipt of the writ of this Court. The reasoning aforesaid will apply to all the employees of the erstwhile corporation who were drawing the higher grade payscale, including those who were absorbed in different government departments without being declared as surplus. Rule is made absolute to the aforesaid extent. There shall be no order as to costs. 7. It is not in dispute that although they had all sought for the voluntary retirement, but before they were reappointed in the other Corporations, all the benefits which were derived on account of the voluntary retirement, were surrendered or rather given up. In my view, the Government should consider the observations made by this Court referred to above including the decision of the learned Single Judge referred to above and pass appropriate orders as regards the claim of the petitioner put forward in these two writ

applications. Let this exercise be undertaken at the earliest and completed within a period of two months from the date of the receipt of the writ of the order." 13. As mentioned above, the respondents in present petitions have asserted that the employees had requested that they accepted the pay scale offered to them and they also accepted fresh appointment and that having accepted the terms and conditions of the appointment order, they are estopped from demanding any other benefits. From foregoing discussion, more particularly from the observation in above referred decisions, it comes out that claim - demand similar to the claim by present petitions is decided by the Court in two cases and almost identical view is taken by the Court in both cases. It is pertinent that in common judgment dated 22.4.2006 in above mentioned two cases viz. Special Civil Application No.1858 of 2011 and Special Civil Application No.4166 of 2011, the Court considered similar claim/issue (as raised by present petitioners) raised by other employees of GSTC (i.e. same corporation where present petitioners were employed). The petitioners in captioned petitions claim that they are similarly placed as petitioners in said two cases and only difference between them and said other petitioner is that they had not opted for VRS and that therefore, there is no justification to discriminate their case from the case decided by the Court by judgment dated 22.4.2006. According to present petitioners, the authorities should have considered this aspect while passing impugned orders, however, authority passed impugned order without considering this aspect and without recording reasons. The petitioners also urge that in present cases Court may not take view different from the view taken by the Court in Special Civil Application No.524 of 1999 and/or in Special Civil Application Nos.1858 of 2011 and 4166 of 2011. As mentioned above, the orders impugned in present petitions are, undoubtedly, nonspeaking and unreasoned orders. The authorities have not recorded any reasons to justify its final decision vide impugned orders. The authorities have neither dealt with the submissions made by the petitioners nor recorded any reasons for rejecting the petitioners' claim. The orders, on the face of it, are not only unreasoned and non speaking orders, but they are passed without application of mind. Under the circumstances such orders cannot be sustained and they deserve to be set aside. Before concluding, it is necessary to deal with one claim - contention by present petitioners viz. the GSTC did not pay them their retiral dues such as gratuity, provident fund, leave encashment. In this context, it is necessary to note that by virtue of the decision dated 6.2.1997 in Company Petition No.205 of 1996, the Court directed that the corporation should be wound up. Thus, the liquidation proceedings were set in motion in pursuance of the said order dated 6.2.1997. The Court directed the Official Liquidator to take charge of the possession of the properties and assets of GSTC in association with Gujarat Industrial Development Corporation, who was appointed as agent of Official Liquidator. Consequently, the properties and assets of the GSTC came under possession and authority of Official Liquidator. In this view of the matter, the petitioners cannot claim said dues/amount from GSTC. The claim should have been lodged - at appropriate stage and within time - before Official Liquidator. The petitioners claim that they had not and they have

not raised claim before the Official Liquidator. 14. Having regard to the above mentioned two decisions and having regard to the fact and circumstances of present case, this Court is convinced that present petitions deserve to be disposed of with direction to the authority to reconsider the case/claim of present petitioners in light of said two decisions. Therefore, following order is passed: [a] For above mentioned reasons, impugned orders dated 30.11.2001 and 4.10.2002 are set aside. [b] The cases are remitted to the competent authority for reconsideration in light of the facts narrated by the petitioners in these petitions. [c] The concerned/competent authority will reconsider the claim of the petitioners and after taking into account relevant facts of each petitioners and after granting opportunity of hearing to the petitioners, the concerned/competent authority will pass fresh and speaking order after taking into account the observations and decision dated 30.6.2014 in Special Civil Application No.524 of 1999 and the decision dated 22.4.2016 in Special Civil Application Nos.1858 of 2011 and 4166 of 2011. [d] The concerned/competent authority shall pass appropriate final order after taking into account above mentioned decisions and facts of each petitioners as expeditiously as possible and preferably within three months from receipt of certified copy of this order. [e] It will be open to the concerned/competent authority to examine as to whether the case of the petitioners fall within purview of the decision dated 30.6.2014 in Special Civil Application No.524 of 1999 and the decision dated 22.4.2016 in Special Civil Application Nos.1858 of 2011 and 4166 of 2011 or not and whether the benefits in accordance with said decisions should be made available to present petitioners or not or the facts and case of present petitioners are different from facts of cited cases. [f] It is clarified that present order shall not be construed to mean that this Court has finally concluded that facts of present petitioners are identical on to the cases of the petitioners in above mentioned decisions and/or that this Court has expressed any final view on that count. The said aspects will be determined by the concerned/competent authority independently in light of the facts of each of present petitioners vis-a-vis the facts of the case taken into account by the Court while deciding the said petitions. [g] So far as the claim for gratuity, provident fund, leave encashment, etc. are concerned, the petitioners will have to lodge such claim before Official Liquidator and it can be considered in accordance with law provided matter is still pending and funds are available with Official Liquidator and provided Official Liquidator finds the claim admissible. With aforesaid observations, directions and clarifications, present petitions are partly allowed. Rule is made absolute to the aforesaid extent. Direct service is permitted.