

Sayali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SAYALI
DEEPAK
UPASANI**

WRIT PETITION NO.14365 OF 2022

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K D Joshi Rubber Industries Pvt. Ltd.
Plot No.A 83-85, H Block,
MIDC, Pimpri, Pune 411 018. ... petitioner

V/s.

K D Joshi Kamgar Sanghatna
C/o M/s. K. D. Joshi Rubber
Industries Pvt. Ltd. Plot No. A 83-85,
H Block, MIDC, Pimpri, Pune 411 018. ... respondent

**WITH
WRIT PETITION NO.17031 OF 2024**

K D Joshi Rubber Industries Pvt. Ltd.
Plot No.A 83-85, H Block,
MIDC, Pimpri, Pune 411 018. ... petitioner

V/s.

K D Joshi Kamgar Sanghatna
C/o M/s. K. D. Joshi Rubber
Industries Pvt. Ltd. Plot No. A 83-85,
H Block, MIDC, Pimpri, Pune 411 018. ... respondent

Mr. Kiran Bapat, Senior Advocate with Mr. Vipul Patel
i/b Haresh Mehta & Co., for the petitioner.

Mr. Nitin Kulkarni, for the respondent.

CORAM : AMIT BORKAR, J.

RESERVED ON : FEBRUARY 26, 2026

PRONOUNCED ON : MARCH 6, 2026

JUDGMENT:

1. By the present Petition, the petitioner Company challenges the Interim Award dated 1 August 2022 passed by the Learned Industrial Court at Pune in Reference (IT) No. 26 of 2018, whereby the Industrial Court directed the petitioner to pay an interim wage increase of Rs.3,700/- per month to the remaining 20 workmen who had not executed the settlement, with effect from March 2020 till final adjudication of the reference.

2. The facts giving rise to the present Petition are as follows. The petitioner is a small-scale industrial undertaking engaged in the manufacture of rubber components. Initially, the petitioner manufactured rubber components for textile machinery, including rubber squeezes used in screen printing. Owing to changes in market conditions and technological advancement, the traditional flatbed screen printing process became obsolete and was replaced by digital printing technology. As a result, the petitioner diversified its production and commenced manufacturing alternative rubber products in order to remain commercially viable in a competitive market.

3. The petitioner contends that it has consistently maintained cordial industrial relations with its employees and has conducted its business in compliance with applicable statutory requirements. According to the petitioner, the respondent Union is not a recognized union within the meaning of Section 3(13) of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practice Act, 1971 and, therefore, lacks exclusive

bargaining rights on behalf of the workmen. Though the respondent Union claims to represent all workmen employed in the petitioner's establishment, no documentary material has been produced to substantiate such claim.

4. The petitioner states that during the period from 1980 to 1992, settlements were executed with Pune Zilla Mazdoor Sangh, a union registered under the Trade Unions Act, 1926, representing the workmen. Thereafter, from 1992 to 2016, the workmen were not affiliated with any union, and collective individual settlements were executed with all workmen. In July 2016, certain workmen formed the respondent Union under the name stated in the cause title. Prior to obtaining registration, five representatives of the workmen issued a Charter of Demands dated 1 July 2016 to the petitioner, purportedly on behalf of all workmen. The petitioner seeks leave to refer to and rely upon the said Charter of Demands as and when produced.

5. The respondent Union was registered only on 22 July 2016. Accordingly, on the date of issuance of the Charter of Demands, the respondent Union was not a registered body and had no legal authority to represent the workmen of the petitioner Company. The formation of the Union was communicated to the petitioner only on 1 July 2017. The petitioner seeks leave to rely upon the said intimation letter as and when produced. Between 14 September 2016 and 22 March 2017, approximately 17 rounds of negotiations were held at the factory premises between the petitioner and the representatives of the workmen. However, no settlement could be reached, according to the petitioner, due to the

rigid and unreasonable stand adopted by the representatives. Although several workmen were agreeable to the proposals made by the petitioner, the representatives and the respondent Union declined to execute the settlement. The petitioner seeks leave to rely upon the minutes of meetings as and when produced.

6. The petitioner initially offered a wage increase of Rs.3,200/- which was subsequently enhanced from time to time despite increased direct and indirect statutory financial burdens. The offer was ultimately revised to Rs.3,700/-, structured in the ratio of 60:20:20 over a period of three years under the proposed settlement. The wage increase comprised 50 percent basic wages and 50 percent allowances. It was specifically stipulated, consistent with the earlier settlement, that the three-year period would commence from the date of execution of the settlement and that no arrears would be payable for the intervening period.

7. Several rounds of conciliation proceedings were conducted before the Conciliation Officer. During the course of such proceedings, the petitioner enhanced its offer to Rs.3,700/- in the same proportion and further offered arrears initially for six months, thereafter for twelve months, and finally for seventeen months at the instance of the Conciliation Officer, which constituted its final offer. The respondent Union, however, declined to accept the said offer and refused to execute the settlement. Notwithstanding such refusal, more than 50 percent of the workmen, namely 23 out of 43 employees, accepted the offer and executed individual settlements with the petitioner Company.

8. As no settlement could be arrived at on account of the failure of conciliation, the Conciliation Officer submitted a failure report. Thereafter, the Appropriate Government referred the industrial dispute for adjudication to the Industrial Court at Pune, which came to be registered as Reference (IT) No. 26 of 2018 pursuant to Reference Order No.35 of 2018 dated 5 November 2018 issued by the Additional Labour Commissioner, Pune Division, under Sections 10(1) and 12(5) of the Industrial Disputes Act, 1947. The respondent Union filed its Statement of Claim along with an Application for Interim Relief dated 19 March 2020, more than one year after commencement of the reference proceedings. The petitioner filed its Written Statement dated 26 March 2021 opposing the claim and denying the allegations made therein. The petitioner thereafter amended its Written Statement.

9. In the Application for Interim Relief, the respondent Union sought grant of an immediate wage increase of Rs.3,700/- per month. The petitioner contends that the said increase was granted only to those workmen who voluntarily accepted the terms and conditions of the settlement and executed the same, which included additional duties and responsibilities. According to the petitioner, the increase was not unilateral, but formed part of a contractual arrangement executed by the majority of the workmen. The respondent Union contended that its members had been deprived of the said wage increase for more than four years while other employees were receiving the same, and that rising inflation made it difficult for such members to sustain themselves. On this basis, interim relief by way of wage increase of Rs. 3,700 per

month was sought. The petitioner filed an amended reply to the said application on 6 July 2022, reiterating that 23 out of 43 employees had accepted the settlement for the period 1 April 2019 to 31 March 2022. According to the petitioner, the remaining workmen, having consciously chosen not to execute the settlement, were not entitled to claim benefits arising therefrom, including the wage increase. The earlier settlement dated 1 July 2013 to 30 June 2016 expressly provided that no retrospective effect or arrears would be payable if the subsequent settlement was signed belatedly after expiry of the earlier settlement. The said 2013 settlement itself came into force on 14 July 2013 after prolonged negotiations spanning approximately 18 months. It is further stated that only on 22 October 2020, nearly three and a half years after commencement of conciliation proceedings, the respondent Union proposed a wage increase of Rs. 4,050 with retrospective effect from 2016 along with arrears for the intervening period. The petitioner contends that such demand was raised at a belated stage when the dispute was already pending adjudication before the Industrial Court and was unsustainable in view of the financial viability of the petitioner. Hence, the present Petition has been filed.

10. Mr. Bapat, learned Senior Advocate appearing for the petitioner, submits that the Industrial Court, in paragraph 18 of the impugned Award, has categorically recorded that the period of the settlement executed in the year 2019 by the concerned workmen came to an end on 31 March 2022. According to him, this position is borne out from the record itself. He contends that the issue, as to

whether the settlement was executed by the workmen under alleged pressure or with an intention to weaken or divide the Union is a matter requiring detailed examination of oral and documentary evidence at the stage of final adjudication. It is submitted that despite recording such findings, the Industrial Court committed an error in law and on facts in granting interim relief by extending the wage rise under the said settlement to workmen who are admittedly non-signatories thereto. The impugned Award, therefore, is stated to suffer from patent illegality and non-application of mind.

11. It is further submitted that the Industrial Court erred in extending selective benefits arising out of the settlement to workmen who had not executed the same, while ignoring the fundamental character of the settlement, which was arrived at on the principle of mutual give and take as expressly recorded therein. The Industrial Court, according to the petitioner, failed to appreciate that the settlement embodied reciprocal obligations, including active work for eight hours per shift, enhancement of production and productivity, maintenance of punctuality and discipline, and compliance with other stipulated service conditions. Grant of monetary benefits in isolation, without corresponding obligations, is contended to be contrary to the very concept and sanctity of collective bargaining.

12. The learned Senior Advocate further submits that the Industrial Court failed to consider that more than fifty percent of the workmen accepted the settlement through the process of collective bargaining. It is urged that the Industrial Court ignored

the communications addressed by the petitioner to all workmen and to the Conciliation Officer, wherein the petitioner had disclosed its financial position and sustainability concerns in the prevailing competitive market. On this basis, it is contended that the impugned Award, being contrary to the material placed on record and settled principles governing industrial adjudication, deserves to be quashed and set aside.

13. In support of the aforesaid submissions, reliance is placed on the judgments in *Tata Consulting Engineers and Associates Staff Union v. Tata Consulting Engineers and Another*, 2002 SCC OnLine Bom 1408; *Tata Engineering and Locomotive Company Limited v. Their Workmen*, (1981) 4 SCC 627; and *Tata Consulting Engineers and Associates' Staff Union v. Tata Sons Ltd. and Another*, 2002 (1) L.L.N. 781.

14. Per contra, Mr. Kulkarni, learned Advocate appearing for the respondent, submits that the petitioner, with a view to divide the unity of employees, entered into separate agreements governing service conditions with different sets of workmen. He submits that the petitioner itself has admitted, in paragraph 6 of the Petition, that the Charter of Demands dated 1 July 2016 was submitted by the respondent Union on behalf of all employees. It is specifically denied that failure to arrive at a settlement was attributable to any adamant stand taken by five representatives of the Union.

15. It is further submitted on behalf of the respondent that had the petitioner entered into a settlement on the Charter of Demands with the Union or with individual employees and granted a wage

rise comprising fifty percent basic wages and fifty percent allowances from the respective dates of appointment, the wages of the employees would presently have been substantially higher. According to the respondent, the petitioner compelled the Union to initiate litigation. It is also contended that since the petitioner itself had offered an interim wage rise of Rs.3,700/- per month during the proceedings, it is precluded from opposing grant of the same by way of interim relief.

16. The respondent further submits that certain employees accepted the wage rise for personal reasons such as illness in the family, educational expenses of children, and repayment of loans, which are matters requiring appreciation of evidence at trial. It is pointed out that the production incentive payable to workmen remained at Rs.300/- per month from 2016 onwards, as reflected in the pay-slips annexed to the affidavit in reply for the months of September 2016 and January 2026. It is contended that while the Union had originally demanded a wage increase of approximately Rs.8,500/- to Rs.9,000/- per month for the period 2016 to 2019, the Industrial Tribunal granted only Rs.3,700/- by way of interim relief. Hence, according to the respondent, no error apparent on the face of the record is made out, and the writ petition deserves dismissal with costs.

17. The learned Advocate for the respondent submits that the impugned Award is based on settled principles governing wage adjudication. Interim relief can be granted upon establishment of a prima facie case. The Industrial Tribunal, while granting interim relief, took into account the undisputed fact that the Company had

offered a wage rise of Rs.3,700/- per month even before the Conciliation Officer, thereby demonstrating its financial capacity to pay, which is a relevant consideration for grant of interim relief. It is contended that the interim wage rise does not amount to final adjudication of the dispute and does not virtually dispose of the reference. The Industrial Tribunal, according to the respondent, considered the financial position of the Company, and it was never the case of the Company that it lacked capacity to bear the financial burden of such interim wage rise. It is further submitted that under Section 10(4) of the Industrial Disputes Act, 1947, the Industrial Tribunal possesses the jurisdiction to grant interim relief during pendency of proceedings.

18. It is further submitted that out of 43 workmen employed at the relevant time, 23 accepted the settlement executed under Section 2(p) read with Rule 62 of the Industrial Disputes (Bombay) Rules. Upon examining the settlement, particularly Clause 13 thereof, certain employees decided not to accept the same since the demands pertaining to the period 2016 to 2019 were deemed to have been waived and the settlement covered only the period 2019 to 2022. It is, therefore, contended that no apparent error has been committed by the Industrial Tribunal in granting interim wage rise to the employees.

19. The respondent further submits that the dispute concerning wage adjudication for the period 2016 to 2019 remains pending before the Industrial Tribunal. It is not the case of the Company that an award in terms of the settlement ought to be passed, particularly when no wage rise has been granted for the period

2016 to 2019. According to the respondent, the Industrial Tribunal has not committed any error in granting interim relief of Rs.3,700/- per month. It is urged that the workmen have suffered continuous hardship since 2016 due to absence of wage revision, and the writ petition deserves dismissal with costs. It is further alleged that the Company is insisting upon acceptance of the settlement for the period 2019 to 2022 as a condition for grant of further wage rise and has entered into subsequent settlements for the periods 2022 to 2025 and 2025 to 2028 with other workmen during pendency of the dispute. According to the respondent, the remaining workmen have been denied wage rise during pendency of the proceedings, and the present petition is an attempt to compel them to accept the settlement, which ought not to be permitted.

REASONS AND ANALYSIS:

20. The Industrial Disputes Act treats settlement as an important way of resolving disputes between employer and workmen. The Act expects the parties to sit across the table, talk to each other and arrive at some workable understanding instead of dragging the dispute into long litigation. Section 2(p) of the Act recognises two types of settlements. One is a settlement which is reached privately between the employer and the workmen without the intervention of the Conciliation Officer. The second is a settlement which comes into existence during conciliation proceedings with the assistance of the Conciliation Officer. It becomes important because the legal effect and binding nature of these two kinds of settlements are different under Section 18 of the Act.

21. In the present case, the material on record indicates that the settlement relied upon by the employer was executed with certain individual workmen, and it was not a settlement reached during conciliation proceedings. A private settlement falling under Section 18(1) binds only those persons who have actually signed it. It does not automatically bind those workmen who have chosen not to sign. In other words, the workmen who have signed the settlement are bound by its terms, including the advantages as well as the obligations attached to it. The workmen who have not signed the settlement cannot be compelled to accept its burdens. At the same time, they also cannot automatically claim the benefits arising out of that settlement unless the law, through adjudication, extends those benefits to them.

22. The courts have repeatedly explained how such settlements are to be understood. In *Brooke Bond of India v. Workmen* (1981) 3 SCC 493, the Supreme Court emphasised that a settlement must be properly authorised and validly executed. The persons signing it must have the authority to do so. This principle becomes relevant in the present matter because one side argues that the union did not have proper authority at a particular point of time, whereas the other side claims that it was acting on behalf of all the workmen. These are disputed factual questions. They cannot be decided merely on the basis of pleadings. Proper evidence will have to be led. Therefore, such issues cannot be finally determined at this interim stage.

23. In *TELCO Ltd. v. Workmen*, (1981) 4 SCC 627, the Supreme Court observed that where a settlement has been accepted by the

majority of the workers, it is normally presumed to be fair and reasonable. This observation supports the contention of the employer that the settlement accepted by 23 out of 43 workers carries certain weight and cannot be brushed aside lightly. At the same time, this presumption is not absolute. Workers who have not accepted the settlement are still entitled to pursue their claim through adjudication. The Tribunal therefore has to maintain a careful balance between respecting the settlement accepted by the majority and protecting the rights of those who have chosen not to accept it.

24. Another principle emerges from the judgment in *Herbertsons Ltd. v. Workmen*, (1976) 4 SCC 736. The Court in that case explained that a settlement must be treated as a complete package. It cannot be broken into separate parts by picking one clause and ignoring the others. In most industrial settlements, wage rise is linked with certain conditions relating to productivity, discipline or working hours. These elements together form a negotiated arrangement. This principle is relevant in the present case because the settlement in question did not merely provide wage rise. It also contained conditions relating to work discipline and productivity. If interim relief is granted by giving only the wage rise to workmen who have not signed the settlement, the Tribunal must clearly explain why the other obligations are not being considered. Otherwise the balance created through negotiation may get disturbed.

25. Judicial decisions also emphasise that settlements are written instruments and must be treated seriously. In *Fabril Gasosa*

v. Labour Commissioner, (1997) 3 SCC 150, the Supreme Court observed that a settlement cannot be altered or modified casually through oral understanding. The written terms have to be respected. Courts and tribunals must look at the settlement as it exists in writing. They cannot assume or add conditions that are not recorded.

26. It is also necessary to understand the difference between a settlement and an award. A settlement is the result of negotiation between the parties themselves. An award, on the other hand, is a determination made by a judicial or quasi judicial authority like the Labour Court or Industrial Tribunal. Once an award becomes enforceable, it binds the parties because of statutory force and not merely because of consent. In the present case, the order under challenge is not a final award deciding the dispute. It is only an interim arrangement made during the pendency of the reference. Therefore, its effect must be examined within the limited scope of interim jurisdiction.

27. Section 18 of the Act further clarifies the persons on whom settlements and awards are binding. Under Section 18(1), a settlement reached outside conciliation binds only those parties who have signed it. This provision supports the argument of the employer that workers who have not signed the settlement cannot automatically claim its benefits. However, the position is different where the settlement is reached during conciliation proceedings. Under Section 18(3), such a settlement binds all workmen of the establishment, including those who have not signed it. The reason is that conciliation settlements are presumed to be fair because

they are reached in the presence of a statutory authority. In the present case, since the settlement was not shown to be a conciliation settlement, the wider binding effect under Section 18(3) does not automatically apply.

28. It is well settled that once a settlement has been acted upon, they are slow to interfere with it. Settlements create contractual obligations which carry legal force. This means that workmen who have voluntarily accepted the settlement cannot later choose to reject some parts of it while keeping the benefits. At the same time, those who have not signed remain free to seek adjudication for improved terms.

29. When these principles are applied to the facts of the present case, a clearer picture emerges. The settlement accepted by the majority of workers is valid and binding upon those who signed it. However, it cannot automatically bind the remaining workers because it was not a settlement reached during conciliation. The Industrial Tribunal certainly had the power to grant interim relief. But while doing so it was required to examine whether extending only the wage rise from a negotiated package to the non-signatory workers would disturb the balance of obligations contained in the settlement. At the same time, the Tribunal was entitled to consider the employer's own offer of Rs. 3,700 as material indicating financial capacity and as a relevant factor while considering interim relief.

30. Interim relief should not operate in such a manner that a private settlement effectively becomes compulsory for all workers.

At the same time, it should not ignore the practical hardship faced by workmen who are awaiting final adjudication of their dispute. The task of the Tribunal at the interim stage is therefore to maintain this balance so that neither side suffers unfair prejudice until the matter is finally decided after evidence.

31. It must therefore be stated that the Industrial Tribunal did possess jurisdiction to grant interim relief. Section 10(4) of the Industrial Disputes Act authorises the Tribunal to pass such orders while a reference is pending. Industrial disputes often take considerable time to conclude. If no interim arrangement is made during this period, the situation may become difficult for both sides. For this reason the law permits interim orders. In the present case, the material placed before the Tribunal showed that during conciliation the employer had itself offered a wage rise of Rs. 3,700. This fact was not seriously disputed. Once such an offer is on record, it becomes relevant in assessing the employer's capacity to pay. Capacity to pay is an accepted factor while considering interim wage relief. Therefore, it cannot be said that the Tribunal lacked jurisdiction. It acted within the powers conferred by law.

32. At the same time, merely having jurisdiction does not end the matter. The exercise of that jurisdiction must be supported by proper reasoning. The settlement in question was not limited to wage increase alone. It also imposed certain conditions relating to discipline, productivity, and attendance. The wage rise formed part of a larger negotiated arrangement. The record, however, does not show adequate discussion on this aspect. The order does not clearly state why the monetary benefit was separated from the

obligations contained in the settlement. When a material legal aspect is not addressed, it indicates lack of proper application of mind. Courts must, therefore, be careful not to consider favourable terms while ignoring the conditions on which those terms were negotiated.

33. Another aspect relates to the allegation that some workmen signed the settlement under pressure or that the settlement was designed to weaken the union. These allegations involve disputed questions of fact. Determining such allegations requires examination of evidence, including oral testimony and documentary material. Witnesses may have to be examined and cross-examined. Even the Tribunal cannot finally decide these questions at an interim stage.

34. For the reasons recorded hereinabove, the following order is passed.

(i) The writ petitions partly succeed;

(ii) The interim Award dated 1 August 2022 passed by the Industrial Court, Pune in Reference (IT) No. 26 of 2018 and interim Award dated 4 September 2024 passed by the Industrial Court, Pune in Complaint (ULP) No.14 of 2023 are set aside to the limited extent it grants interim wage rise of Rs.3,700/- per month to the workmen who are non-signatories to the settlement, without recording reasons regarding the reciprocal obligations arising under the said settlement;

(iii) The Industrial Court shall reconsider the applications

for interim relief afresh, after giving opportunity of hearing to both sides, and shall specifically examine the effect of the reciprocal obligations contained in the settlement, the financial capacity of the employer, and the balance of convenience between the parties. The Industrial Court shall pass a reasoned order in accordance with law without being influenced by any observations on merits contained in this judgment;

(iv) It is clarified that all questions relating to allegations of pressure, coercion, unfair procurement of signatures, union representation and validity or fairness of the settlement are kept open to be decided at the stage of final adjudication on the basis of evidence;

(v) The Industrial Court shall endeavour to decide the application for interim relief within a period of eight weeks from the date of receipt of this order.

35. Rule is made partly absolute in the above terms. No order as to costs.

(AMIT BORKAR, J.)