Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.632 OF 2010

1. **Tulshiram T. Patil**,
   Age about 60 years, residing at
   Mohar Pada, PO Kasrvadavali,
   G.B. Road, Thane

2. **Parsnath Yadav**,
   Age about 51 years,
   Ramraj Yadav Chawl, Karvalo Nagar,
   J.K. Gram, Thane.

3. **Ramchandra Mourya**,
   Age 48 years, Vijayki Chowk,
   Azad Nagar No.2, Thane

3. **Dattatraya Vaidya**,
   Age about 53 years,
   10, Anysaya Apartment,
   Charai, Thane.

… **Petitioner**

V/s.

1. **Wellman Hindustan Limited**,
   Kolshet Road, Thane (Notice to be
   served at 21-B, Urvashi,
   Napeansea Road, Mumbai)

2. **Vinod Kumar Mehra**, Director,
   Wellman Hindustan Limited,
   having office at Neville House,
   Currimbhoy Road, Ballard Estate,
   Mumbai (Notice to be served at
   21-B, Urvashi, Napeansea Road,
   Nashik.

3. **Kamgar Ekata Union**, a trade union registered under the Trade Unions Act, 1926, having its office at C/o. 31, Siddharth Nagar, Kalva, Thane (Notice to be served at Mumbai-Pune Highway, Manisha Nagar, Kalwa, Thane 400 608
4. **Wellman Employees Trade Union**, also a trade union registered under the Trade Unions Act, 1926, having its office at C/o. Wellman Hindustan Ltd., Kolshet Road, Thane
5. **J.P. Limaye**, Member, Industrial Court, Maharashtra at Thane

... **Respondents**

WITH
WRIT PETITION NO.14112 OF 2022

Gangaya Moolya,
Age about 64 years,
Room No.C-108, First Floor, Tirupati Housing Society, Near Ambar Hotel, Sahad (West), District Thane

... **Petitioner**

V/s.

1. **Wellman Hindustan Limited**, Neville House, Ballard Estate, Fort, Mumbai 400 001
2. **Wellman Hindustan Limited**, Kolshet Road, Thane (Notice to be served at 21-B, Urvashi, Napeansea Road, Mumbai)
3. **Vinod Kumar Mehra**, Director,

Wellman Hindustan Limited,
having office at Neville House,
Currimbhoy Road, Ballard Estate,
Mumbai (Notice to be served at
21-B, Urvashi, Napeansea Road,
Nashik.

4. **Kamgar Ekta Union**, a trade union registered under the Trade Unions Act, 1926, having its office at C/o. 31, Siddharth Nagar, Kalva, Thane (Notice to be served at Mumbai-Pune Highway, Manisha Nagar, Kalwa, Thane 400 608

5. **Wellman Employees Trade Union**, also a trade union registered under the Trade Unions Act, 1926, having its office at C/o. Murtiram Joshi, Manorama Nagar, Plot No.4, Shivsena Shakha, Kolshet Road, Thane.

... **Respondents**

WITH
WRIT PETITION NO.4469 OF 2019

1. **Shankar Gangaram Dike**,
Age about 58 years, Panchamrut Apartment, 4th Floor, Room No.403, Lakmanya Nagar, Pada No.4, Thane (West)

2. **Prakash Kruparam Alai**,
Age about 47 years,
Plot No.18, D.I. Priyadarshani CHSL, Sarkar Nagar, Thane (West)

... **Petitioners**

V/s.

1. **Wellman Hindustan Limited**, Kolshet Road, Thane (Notice to be served at 21-B, Urvashi, Napeansea Road, Mumbai)
2. **Vinod Kumar Mehra**, Director, Wellman Hindustan Limited, having office at Neville House, Currimbhoy Road, Ballard Estate, Mumbai (Notice to be served at 21-B, Urvashi, Napeansea Road, Nashik.
3. **Kamgar Ekta Union**, a trade union registered under the Trade Unions Act, 1926, having its office at C/o. 31, Siddharth Nagar, Kalva, Thane (Notice to be served at Mumbai-Pune Highway, Manisha Nagar, Kalwa, Thane 400 608
4. **Wellman Employees Trade Union**, also a trade union registered under the Trade Unions Act, 1926, having its office at C/o. Murtiram Joshi, Manorama Nagar, Plot No.4, Shivsena Shakha, Kolshet Road, Thane.
5. **S.K. Deshpande**, Member, Industrial Court, Maharashtra at Thane

… **Respondents**

WITH
WRIT PETITION NO.6524 OF 2013

1. **Pandarinath Babu Mhatre**, having address at Diva, Post Anjur, Taluka Bhiwandi, District Thane.

2. **Shukarnath Ganpat Mhatre**,
having address at Diva, Post Anjur,
Taluka Bhiwandi, District Thane

… Petitioners

V/s.

1. **Wellman Hindustan Limited**,
Kolshet Road, Thane (Notice to be
served at 21-B, Urvashi,
Napeansea Road, Mumbai)
2. **Vinod Kumar Mehra**, Director,
Wellman Hindustan Limited,
having office at Neville House,
Currimbhoy Road, Ballard Estate,
Mumbai (Notice to be served at
21-B, Urvashi, Napeansea Road,
Nashik.
3. **Kamgar Ekta Union**, a trade union
registered under the Trade Unions
Act, 1926, having its office at
C/o. 31, Siddharth Nagar, Kalva,
Thane (Notice to be served at
Mumbai-Pune Highway, Manisha
Nagar, Kalwa, Thane 400 608
4. **Wellman Employees Trade Union**,
also a trade union registered under
the Trade Unions Act, 1926, having
its office at C/o. Murtiram Joshi,
Manorama Nagar, Plot No.4,
Shivsena Shakha, Kolshet Road,
Thane.

… Respondents

Mr. K.P. Anil Kumar with Jayshree Kumar, Amit Sadle and Priyanka Kumar for the petitioners in WP/632/ 2010 & W/P6524/2013.

Mr. G.R. Naik with Uresh U. Sawant, Rutika Naik i/by M/s. G.R. Naik & Co., for the petitioners in WP/4469/ 2015 & WP/14112/2022.

Mr. Prashant C. Pavaskar for respondent No.1.

Mr. Gaurav Shrivastav along with Nikita Vardhan and Srushtee Panhale i/by Kanga & Co., for respondent No.2 in WP/632/2010.

CORAM : AMIT BORKAR, J.

RESERVED ON : JANUARY 30, 2026

PRONOUNCED ON : FEBRUARY 24, 2026

JUDGMENT:

1. By the present petition under Article 226 of the Constitution of India, the petitioners call in question the legality and correctness of the judgment and order passed by the Industrial Court, Maharashtra at Thane in Complaint (ULP) No.181 of 2008. By the said order, the Industrial Court dismissed the complaint preferred by the petitioners under the MRTU and PULP Act and consequently rejected their claim for wages for the period from June 1999 to November 1999.

2. According to the petitioners, respondent No.1 company was engaged in the business of processing wool at its factory situated at Thane. It is their case that the company discontinued its operations and proposed to dispose of its factory land admeasuring about 8.33 acres along with plant and machinery, the total value of which was stated to be approximately Rs.125 crores. At the relevant time, about 445 employees were in service, whose names

are set out in Exhibit 'A', and who were stated to be permanent workmen of respondent No.1.

3. The petitioners instituted Complaint (ULP) No.181 of 2008 alleging commission of unfair labour practices under Item No.9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. In the complaint, they sought recovery of unpaid wages and other statutory dues from respondent No.1. They also alleged that the payments made towards statutory benefits were short and not in accordance with law. It is the case of the petitioners that although they were earlier members of a recognised union, they lost confidence in the said union and tendered their resignations from its membership in the year 1999. Thereafter, according to them, they were not members of any recognised union nor were they represented by any common union. They contend that wages for the period from June 1999 to November 1999 were not paid to them.The petitioners further state that on 16 November 1999, respondent No.1 displayed a notice on the factory notice board informing the workmen that they need not report for duty until further instructions and assuring them that their services would remain protected. The notice also indicated that unpaid wages would be disbursed as and when the company's financial position permitted. It is further stated that respondent No.1 approached the Board for Industrial and Financial Reconstruction by filing Case No.61 of 1988 seeking to be declared a sick industrial company. The BIFR passed an order under Section 20(1) of the Sick Industrial Companies Act directing winding up of the company. Though the

said order was subsequently set aside, and the matter remanded, respondent No.1 made a statement before the BIFR that it would not dispose of its assets. The petitioners allege that notwithstanding the subsistence of the winding up order, respondent No.1 entered into a settlement dated 31 March 2005 with respondent No.4 employees' union. Under the terms of the settlement, each employee was paid an advance amount of Rs.10,000, with an assurance that the remaining dues would be cleared upon sale of the Thane unit land and machinery. The petitioners assert that they were neither members of respondent No.4 union nor parties to the said settlement.

4. It is further alleged that pursuant to the settlement dated 31 March 2005, certain active members of respondent No.4 union took the petitioners in groups to the company's head office, confined them in a room and obtained their signatures on various documents, blank papers and printed forms before disbursing the advance of Rs.10,000/-. The petitioners, claiming to be illiterate workmen, contend that they were unaware of the contents and nature of the documents on which their signatures were obtained. The petitioners state that during the period from September 2006 to July 2008, they received cheque payments said to be towards the balance statutory dues along with interest. Upon receipt of the final amounts, they claim to have realised that the payments were less than what was legally payable and that there was a shortfall in statutory dues. On 21 April 2008, they addressed a communication to respondent No.1 recording their protest regarding the manner in which their signatures were obtained and disputing the

computation of their dues. Thereafter, they filed Complaint (ULP) No.181 of 2008 seeking recovery of the differential amounts.

5. Respondent No.1 filed its written statement opposing the complaint. It was contended that the complaint was barred by limitation and that the persons who instituted it lacked proper authorisation. It was further contended that the petitioners had voluntarily resigned and, therefore, ceased to be employees within the meaning of the MRTU and PULP Act. Respondent No.1 asserted that all legal dues were paid in terms of the settlement dated 31 March 2005 executed with respondent No.4 union, which settlement was later modified by a corrigendum dated 21 June 2007. Respondent No.1 also pleaded that owing to severe financial difficulties since 1998, an understanding was arrived at with the recognised union for deferred payment of wages. As the financial position did not improve, respondent No.1 approached the BIFR on 15 May 1998. By order dated 6 November 2006, the BIFR directed winding up of the company, which order was subsequently set aside by the Appellate Authority. It was further contended that under the settlement dated 31 March 2005, all 445 employees stood relieved from service with effect from that date and were paid their retirement benefits. Each workman received Rs.10,000 in cash as advance and the remaining amounts were disbursed by cheque in accordance with the settlement and the corrigendum. Respondent No.1 also relied upon a subsequent settlement dated 20 June 2006 entered into with the recognised union and asserted that all 318 petitioners were governed by the said settlements.

6. The Industrial Court framed the necessary issues arising for determination, permitted the parties to lead oral and documentary evidence and, after hearing both sides, dismissed the complaint. Aggrieved thereby, the petitioners have invoked the writ jurisdiction of this Court by filing the present petition.

7. Mr. Anil Kumar, learned Advocate appearing for the petitioners in Writ Petition No.632 of 2010, and Mr. Naik, learned Advocate appearing for the petitioners in the remaining two petitions, submitted that although the petitioners tendered their resignations in April 2005 with effect from 31 March 2005, their legal dues were calculated only up to May 1999. According to them, the petitioners were entitled to wages and gratuity up to the date of resignation. It was contended that the notice dated 16 November 1999, by which the workmen were directed not to report for duty, was never withdrawn. Therefore, the petitioners claimed entitlement to full legal wages from 17 November 1999 till 31 March 2005. In support of this submission, reliance was placed on the decision in *Premier Automobiles Employees Union v. Premier Automobiles Ltd.,* 1995 III LLJ 840. It was further submitted that payment of legal dues to workmen partakes the character of a right to livelihood and, therefore, falls within the protective ambit of Article 21 of the Constitution of India. Though a settlement between employer and workmen is permissible in law, such settlement must conform to statutory requirements and public policy and must satisfy the mandate of Section 23 of the Indian Contract Act. It was contended that the basic pay was incorrectly computed and that gratuity payable from 1999 till the

date of resignation could not have been waived. The petitioners further contended that the subsequent settlement dated 21 June 2006 is unenforceable in law. Learned Advocate for the petitioners placed reliance upon the following decisions: *Warna Sahakari Dudh Utpadak Prakriya Sangh Ltd. v. Tanaji Bapurao Telli,* 2010 II CLR 403; *The Premier Automobiles Employees Union v. The Premier Automobiles Ltd.,* 1995 III LLJ 840; *Nar Singh Pal v. Union of India,* 2000 II CLR 15; *Oswal Agro Furane Ltd. v. Oswal Agro Furane Workers Union,* 2005 I CLR 816; *Warden & Co. (India) Ltd., Bombay v. Akhil Maharashtra Kamgar Union, Thane,* 2001 II CLR 359; and *India Yamaha Motor Pvt. Ltd. v. Dharam Singh,* 2014 (143) FLR 488.

8. Per contra, learned Advocate for respondent No.1 company invited attention to Section 2(t) of the Industrial Disputes Act, which defines “settlement”, and to Section 18(1) thereof, which renders a settlement binding upon the parties to the agreement. It was submitted that even a settlement arrived at otherwise than in the course of conciliation proceedings is binding on the parties. According to respondent No.1, the petitioners raised the present dispute for the first time in July 2008, though they had accepted payments as early as 2005 and 2007. It was pointed out that the company had ceased operations since 1999. Payments were made in three stages. First, an advance of Rs.10,000/- was paid. Thereafter, full and final payments were made as per the settlement. Subsequently, interest was also paid on delayed payments. The concerned workers, including the complainants, issued independent receipts acknowledging such payments.

Learned Advocate for respondent No.1 drew attention to Clauses (2) and (12) of the settlement dated 31 March 2005. Clause (2) records that 442 workmen named in Annexure "A" agreed to voluntary retirement and were to be paid full and final settlement of all monetary and other claims, including gratuity, leave wages, ex gratia and bonus, as specified in the annexure. The company agreed to make payment not later than 30 December 2006 and, in case of delay beyond 31 December 2006, to pay interest at 8 percent per annum on outstanding dues up to 30 June 2007. The clause further stipulates that the agreement would stand terminated if payments with interest were not made by 30 June 2007. Clause (12) provides that in view of the agreed payments, neither the workmen nor the union would raise any future dispute or demand against the company arising out of voluntary retirement and that they would have no claim of any nature, monetary or otherwise, including reemployment.

9. In response to the allegation of fraud, it was submitted on behalf of respondent No.1 that no particulars of fraud were pleaded or established in evidence. It was emphasized that the settlement bore the signatures of 445 workmen and was not confined to a few individuals. After execution of the settlement, details of payments were displayed on the notice board and objections, if any, were invited. Except for one or two individuals, no grievance was raised. The petitioners issued receipts acknowledging payments under the settlement dated 31 March 2005 and such receipts do not record that the amounts were accepted under protest or without prejudice. Reliance was placed

on the judgment of the Supreme Court in *Herbertsons Ltd. v. Workmen of Herbertsons Ltd.,* (1976) 4 SCC 736, wherein it was held that a settlement must be viewed as a package deal and, where negotiations involve mutual concessions in the interest of industrial peace, it cannot be dissected to challenge isolated terms as unfair. Further reliance was placed on the decision of this Court in *Sarva Shramik Sangh v. V.V.F. Limited & Anr.,* 2002 (93) Vol.2 Mh.L.J. 434, wherein it was held that a settlement arrived at during conciliation proceedings is binding not only upon the parties to the dispute but also upon the heirs, successors or assigns of the employer and upon all workmen in the establishment. Learned Advocate also relied upon the judgment of the Supreme Court in *Man Singh v. Maruti Suzuki India Ltd. & Anr.,* (2011) 14 SCC 662. It was submitted that in the said case the Supreme Court held that where an employee accepts full monetary benefits under a voluntary retirement scheme, it is not open to him thereafter to challenge the termination of service. It was contended that a workman who retains the monetary benefits under such a scheme cannot simultaneously pursue a dispute impugning the same transaction. Reliance was further placed on the judgment in *HEC Voluntary Retired Employees Welfare Society & Ors. v. Heavy Engineering Corporation Ltd. & Ors.,* (2006) 3 SCC 708. It was submitted that voluntary retirement accepted in terms of a scheme results in a concluded contract between employer and employee. Unless such contract is governed by constitutional or statutory provisions, it is regulated by the principles of the Indian Contract Act, both as regards formation and termination.

REASONS AND ANALYSIS:

Employee status and entitlement to wages up to 31 March 2005:

10. Exhibit A contains the names of the petitioners as permanent workmen of the establishment. That document has not been disputed. Once a person is shown as a permanent employee, the burden lies heavily on the employer to show how and when that relationship came to an end. Employment must come to a close in a manner known to law.

11. The company asserts that the petitioners had voluntarily resigned prior to 31 March 2005. A resignation is a conscious act by which a workman gives up his service. Such an act must be proved by clear material. Normally, one would expect a written resignation letter, acknowledgment by the employer, acceptance of the resignation, and a record showing the date from which the employee stood relieved. None of these documents have been produced for the period prior to the 2005 settlement. There are no resignation letters placed on record which predate the settlement. There is also no evidence of full and final settlement having been made at any earlier point of time.

12. The notice dated 16 November 1999 assumes importance. By that notice, the workmen were told not to report for duty until further orders. The notice also assured them that their employment would be protected. That notice was not shown to have been withdrawn. There is no subsequent communication placed on record stating that services stood terminated or that the workmen were discharged. In the absence of such material, the

Court cannot presume termination. If the employer intended to bring the relationship to an end, it was required to act in accordance with law and place such action on record.

13. The company has also not produced any contemporaneous record to show that the petitioners were re-employed elsewhere in the establishment, transferred, dismissed for misconduct, or retrenched in accordance with statutory procedure before 31 March 2005. There is no charge sheet. There is no retrenchment notice. There is no order of termination. In these circumstances, it is not possible to accept the plea that the petitioners had voluntarily severed their service at an earlier point of time. The mere fact that work had stopped or that the factory was not functioning does not automatically snap the contract of employment. A contract of employment continues unless it is brought to an end in a manner recognized by law.

14. The position therefore is that the petitioners continued to remain employees for the purpose of claiming wages and gratuity unless one of two things happened. Either they voluntarily opted for retirement under a lawful and binding scheme, or they resigned in clear and unequivocal terms and such resignation was accepted. Neither situation has been established for the period prior to the settlement of 2005. The display of a notice asking workmen not to report for duty cannot, by itself, amount to termination. An employer who intends to terminate must follow statutory safeguards. If the termination amounts to retrenchment, compliance with the Industrial Disputes Act is mandatory. If it is dismissal for misconduct, due process must be followed. None of

these steps are shown here.

15. On a careful reading of the evidence and documents, I am satisfied that the petitioners remained in service in the eye of law until they validly accepted the settlement of 2005. Till that point, they retained the character of employees and were entitled to claim wages and statutory benefits, subject of course to the effect of any lawful settlement entered into thereafter.

Legal effect of the 16 November 1999 notice:

16. A notice asking workers not to report for duty is, on its face, a suspension of work. The notice also stated employment would be protected and unpaid wages would be paid when funds permit. That language supports the petitioners' case that they were not dismissed then. The company followed with BIFR proceedings and financial distress. BIFR orders and statements to BIFR that assets would not be alienated are relevant background. They do not, by themselves, relieve the company of its statutory obligations to pay wages and gratuity. The 16 November 1999 notice did not amount to a clear termination that extinguished the petitioners' right to wages and gratuity. It created a condition of non-working with a promise of protection. That promise gives the petitioners the right to claim wages and statutory benefits unless they validly agreed otherwise later.

Validity and binding effect of the 31 March 2005 settlement and corrigendum:

17. Sections 2(t) and 18(1) of the Industrial Disputes Act make the legal position clear. A "settlement" means an agreement

between the employer and the workmen arrived at either in the course of conciliation or otherwise. Once such a settlement is entered into, it binds the parties who are signatories to it. The law recognises that industrial disputes are often resolved through negotiation. When both sides agree upon terms and act upon them, the Court does not lightly disturb that arrangement.

18. Clause 2 of the settlement dated 31 March 2005 states in clear words that 442 named workmen, whose names are set out in Annexure A, would stand relieved on voluntary retirement and would receive full and final settlement of all their monetary claims as detailed in the annexure. It includes gratuity, leave wages, ex gratia and other dues. Clause 12 goes further. It records that once the agreed amounts are paid, neither the workmen nor the union would raise any future dispute arising out of the voluntary retirement. In substance, the document treats the matter as finally concluded. In view of these clauses, two central questions arise. Did the petitioners in fact agree to this settlement. If they did, can they now avoid it on the ground that their consent was not free.

19. The company has produced material to show that payments were in fact made to a large number of workers. Receipts acknowledging the payments are on record. Statements of payment were displayed on the notice board. The evidence shows that, at the relevant time, there was no large scale protest. Except for a few individuals, no formal grievance was recorded immediately after payment. These surrounding circumstances indicate that the settlement was implemented and acted upon by most of the workforce.

20. The petitioners contend that they were not members of the union that negotiated the settlement. They allege that they were taken in groups to the company's office, made to sit in a room and compelled to sign papers without being told what those papers contained. They say they are illiterate and did not understand the contents. According to them, their consent was not lawful.

21. The law on this point is settled. A settlement must be voluntary. Consent must be free. If a person signs a document because of fraud, coercion or misrepresentation, the agreement can be avoided. At the same time, fraud is not to be presumed. It must be pleaded clearly and proved with specific facts. A general statement that signatures were obtained by force is not enough. The Court must see details.

22. In the present case, the pleadings contain an allegation of fraud, but the particulars are absent. The evidence led in support of this plea is also not convincing. No independent witness has come forward to say that the petitioners were confined or threatened. No complaint was lodged immediately after the alleged incident. The receipts issued at the time of payment do not record that the amounts were received under protest. They do not contain any endorsement reserving rights. If a workman truly believed that his signature had been obtained unfairly, one would expect some immediate objection, at least in writing.

23. The Court must look at the entire picture. The settlement was signed by a large number of workers. Payments were made in stages. Interest was also paid in case of delay. The petitioners

accepted the amounts and issued receipts. There is no contemporaneous material showing protest at the time of execution. On the face of the record, therefore, the settlement dated 31 March 2005 appears to be a bona fide industrial settlement arrived at to resolve the dispute arising out of closure and financial distress. The petitioners seek to avoid it on the ground of fraud. Such a challenge demands strong and specific evidence. In the absence of such proof, the Court cannot invalidate the settlement merely on suspicion.

24. Accordingly, I hold that the settlement of 31 March 2005 binds those workmen who accepted its terms and received payment thereunder. The settlement, therefore, continues to operate against them.

Allegation of fraud in obtaining signatures:

25. Fraud is a serious allegation. It cannot rest on vague statements or general suspicion. When a party alleges fraud, the law requires that full particulars must be stated. The person must say what exactly was misrepresented, who made the misrepresentation, when it was made, and how it influenced the decision to sign. Courts require clear facts and convincing proof.

26. In the present case, the petitioners rely mainly on two aspects. First, they say they are illiterate workmen. Second, they state that certain union members took them to the company's office and obtained their signatures. Illiteracy by itself does not establish fraud. Many industrial settlements are signed by workers who may not be formally educated. The crucial question is

whether they were misled or forced into signing something different from what was explained to them.

27. The record does not show that the signatures on the settlement documents are forged. The petitioners do not dispute that the signatures are theirs. They also do not produce any material to show that the contents of the documents were materially different from what was represented to them. No document has been placed on record to demonstrate that the settlement terms were altered after signing or that blank papers were later converted into binding agreements. It is also significant that no independent witness has supported the allegation of coercion. If the petitioners were confined or pressurised, one would expect at least one neutral person to step forward and speak about the incident. That has not happened. There is also no contemporaneous complaint lodged with any authority. No police complaint. No written protest to the management on the same day or shortly thereafter. Silence at the relevant time weakens the plea of fraud.

28. When the payments were made, receipts were issued. Those receipts do not contain any endorsement that the amount was accepted under protest or without prejudice. If a person believes that he is being forced into a settlement or short paid, the natural conduct would be to record some form of objection. The absence of such immediate protest is a relevant circumstance.

29. The Supreme Court in *Herbertsons Ltd.* observed that industrial settlements should be viewed as a whole. They are often

the result of negotiations where both sides make concessions. Courts must be slow to unsettle such arrangements unless there is clear and strong evidence of unfairness or illegality. Industrial peace is not achieved easily. When a settlement resolves a long standing dispute, it should not be disturbed on slender grounds.

30. In the present case, the petitioners have not produced cogent material to show that the settlement was the product of fraud or coercion. The allegation remains at the level of assertion. The documentary record, including the receipts and the absence of timely protest, points in the opposite direction. For these reasons, the plea of fraud cannot be accepted. It has not been proved in the manner required by law. The settlement cannot be set aside on such unsubstantiated allegations.

Adequacy of the payments and correctness of statutory calculations

31. The petitioners contend that even after accepting cheques between 2006 and 2008, they were not paid their full statutory dues. To support this claim, they placed on record their own calculations and comparative charts. According to them, if wages, gratuity and other benefits were properly calculated up to 31 March 2005, the amounts paid would fall short.

32. The company, on the other hand, produced its own detailed computations. It relied upon Annexure A to the settlement dated 31 March 2005 and the subsequent corrigendum. It also placed on record payroll statements, break up of amounts paid, and receipts signed by the concerned workmen. The Industrial Court examined the material placed by both sides. It considered the settlement

formula, the annexure specifying individual amounts, and the interest component for delayed payment. After comparing the rival calculations, the Industrial Court came to the conclusion that the company had computed the dues in accordance with the settlement and its corrigendum.

33. At this stage, it is necessary to keep in mind two settled principles of law. The first is that parties are free to enter into a full and final settlement resolving their disputes. In the context of industrial law, such settlements are encouraged to promote certainty and peace. However, this freedom is not absolute. A settlement cannot override mandatory statutory provisions. If a statute fixes a minimum entitlement, the parties cannot contract out of it.

34. The second principle is that where a statute confers a right which is mandatory in nature, and where the statute prohibits waiver, any agreement seeking to reduce that right below the minimum prescribed by law would be void as against public policy.

35. Gratuity, where applicable, is governed by the Payment of Gratuity Act. The Act prescribes how gratuity is to be calculated and sets the minimum entitlement. If an employer pays less than what the statute mandates, such deficiency cannot be justified by referring to a private settlement.

36. In the present case, however, the petitioners have not been able to demonstrate that the amounts paid to them fell below the statutory minimum. Their calculations show a difference. But that difference appears to arise from the method adopted for

calculation, not from denial of a statutory component. The company's case is that the settlement formula in Annexure A fixed the basis for computation. The Industrial Court accepted that the payments were made in line with that agreed formula.

37. The petitioners did not produce any authoritative computation under the Payment of Gratuity Act showing that the statutory minimum was breached. They did not establish that a specific provision of the statute was violated. What emerges from the record is a dispute over arithmetic and interpretation of the settlement terms, rather than a clear case of statutory non-compliance.

38. When a Court reviews such findings in writ jurisdiction, it does not re calculate figures unless there is patent error or illegality. Here, the Industrial Court examined the evidence, compared the figures, and recorded a reasoned finding. That finding is supported by the documents on record.

39. On the material available, it cannot be said that the payments made were below the statutory minimum or that the employer attempted to defeat mandatory provisions of law. The alleged shortfall appears to arises from differing bases of computation. In these circumstances, the conclusion of the Industrial Court that the payments conformed to the settlement and corrigendum does not call for interference.

<u>Limitation and conduct after payments:</u>

40. The company has strongly relied on the aspect of delay. According to it, the settlement was executed in March 2005.

Payments commenced thereafter. An advance amount was paid first. Thereafter, further payments were made by cheques in stages, extending up to the year 2008. The petitioners accepted those payments. Only on 21 April 2008 did they address a letter raising objection to the calculations. The complaint under the MRTU and PULP Act was filed thereafter.

41. In law, limitation depends upon when the cause of action arose. If a person believes that he has been short paid under a settlement, the cause of action ordinarily arises when the final amount is paid or when he becomes aware of the alleged shortfall. If he accepts a full and final settlement and remains silent for a considerable period, the Court is entitled to examine whether the challenge is an afterthought.

42. It is true that the petitioners did address a letter dated 21 April 2008. That letter shows that they raised an objection before filing the complaint. However, the surrounding circumstances cannot be ignored. The evidence indicates that payments were made in instalments. Some amounts were received earlier. Some cheques were issued later. If the petitioners were of the view that the calculations were wrong, the natural course would have been to object at the time of receipt of the final amount. At the very least, they could have recorded in writing that the amount was being accepted under protest. There is no such endorsement on the receipts produced. There is no immediate written protest when the cheques were encashed. The record does not show any contemporaneous dispute during the earlier phase of payments. The first formal objection appears only after the cycle of payments

was completed.

43. Reasonable promptness is an important factor in industrial matters. Settlements are meant to bring closure. If, after accepting money and issuing receipts, a workman waits for years and then challenges the same settlement, the Court must scrutinize the conduct carefully. Delay by itself may not always defeat a claim, but unexplained delay weakens the credibility of the challenge.

44. In the present case, the petitioners' conduct suggests that they acted upon the settlement, accepted payments over time, and only thereafter raised a dispute. Their letter of April 2008 came after substantial payments had already been received. There is no material to show that they consistently objected from the beginning. This delay, coupled with the absence of protest at the time of receipt, supports the inference that the petitioners accepted the settlement in substance. The belated challenge appears to be an attempt to reopen what had already been treated as closed. The Industrial Court was therefore justified in taking the delay into account while assessing the genuineness of the claim.

Principle that Industrial Settlements Must Be Viewed as a Composite Package Deal (Herbertsons Ltd. v. Workmen):

45. Applicability of the decision in *Herbertsons Ltd.* has to be understood in a realistic manner. The Supreme Court in that case explained that when courts examine an industrial settlement, they should look at the circumstances in which the settlement was reached and the practical difficulties faced by both sides at that time.

46. In industrial disputes, litigation often continues for years. During that period, workers face uncertainty about wages and future employment. Employers face uncertainty about liability and survival of the business. Because of this uncertainty, both sides may decide to negotiate and reach a middle path. The Supreme Court recognised that such negotiations involve compromise. One side may give up part of its claim to secure immediate relief. The other side may agree to pay more than what it believes is strictly payable in order to bring finality. The principle laid down is that a settlement must be viewed as a package deal. Courts should not separate one clause and test it in isolation. A settlement may provide some benefits while reducing or adjusting others. If, overall, it reflects a reasonable and fair adjustment reached through negotiation, it cannot be labelled unfair merely because one component appears less favourable when compared with a possible court award.

47. Applying this reasoning to the present matter, the background becomes important. The company had stopped operations. Proceedings before BIFR were pending. There was uncertainty about recovery of dues and about the future of the establishment. In such circumstances, a settlement offering advance payment, phased disbursement and eventual closure of claims was a practical method to resolve a long pending dispute.

48. The petitioners seek to reopen the settlement mainly by comparing the amounts paid with what they believe they were entitled to under another method of calculation. *Herbertsons* cautions against this approach. The proper question is not whether

the workmen might have obtained more through prolonged litigation. The real question is whether the settlement, seen as a whole, was a genuine compromise reached in the prevailing conditions. The record shows that a large number of workers accepted the settlement and received payments. The terms were acted upon over a period of time. This conduct supports the inference that the settlement was treated as a workable resolution at that stage. Once parties have accepted and implemented such an arrangement, the court should interfere only if there is clear proof of illegality, fraud, or violation of mandatory statutory rights. Therefore, the judgment of *Herbertsons* reminds the Court that industrial peace and negotiated settlements deserve respect. Unless the settlement is shown to be fundamentally unfair or contrary to law, it should not be disturbed merely because one side later feels that a better bargain might have been possible. *Herbertsons* applies here to say that the settlement must be judged in the context of the difficult circumstances in which it was made, treated as a complete package, and upheld unless strong and specific reasons exist to reject it.

49. On the facts before me the petitioners were employees whose employment was in suspense after 16 November 1999. They were entitled to wages and statutory benefits unless they validly accepted a voluntary retirement scheme. The evidence shows a negotiated settlement dated 31 March 2005, widely accepted and acted upon by the workforce. The petitioners received advance and subsequent payments and issued receipts. They failed to prove fraud or coercion with the necessary

particularity. They did not establish that the settlement reduced statutory minimum below mandatory levels. They delayed their protest.

50. For these reasons, I find no legal error in the Industrial Court's conclusion that the complaint was not maintainable as pressed, and that the settlement and corrigendum operate to bar the petitioners' claims as presented. The Industrial Court evaluated the documents, framed relevant issues, and recorded findings supported by evidence. I will not interfere with those findings.

51. Hence, I pass following order. All the writ petitions stand dismissed.

52. There will be no order as to costs.

53. All pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)