

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Miscellaneous Application No.1413/2020  
in Civil Appeal No. 353/2020

PAWAN HANS LTD. & ORS.

Petitioner(s)

VERSUS

AVIATION KARMACHARI SANGHATANA & ORS.

Respondent(s)

O R D E R

This is in continuation of the earlier order dated 08.12.2020 whereunder the appellant - Pawan Hans Ltd. was called upon to respond to the affidavits filed on behalf of respondent No.1 and particularly paragraphs 2,3 and 5 thereof.

An affidavit has thereafter been filed on behalf of the appellant to which response has also been filed by respondent No.1.

Paragraph 2 of the affidavit of respondent No.1 had dealt with cases of five employees named; (i) Mr. Siddesh Aiyarkar, (ii) Mr. Manish Jha, (iii) Mr. Bhalchandra Chaughule, (iv) Mr. Kuldeep Ithape, and (v) Mr. Asnil Vadiya. It is accepted by the appellant that these five employees are entitled to the benefit in terms of the judgment rendered by this Court. It is also stated that arrears of Provident Fund amounting to Rs.2,18,243/- in respect of these employees shall be deposited by the appellant towards employer's share with the Pawan Hans Provident Fund Trust.

Coming to the case of six employees named; (i) Mr. Mahadevo Sarode, Employee ID No.99058, (ii) Mr. Dindayal Dubey, Employee ID.No.99057; (iii) Mr. Bharat Parmar, Employee ID No.99065; (iv) Mr. Eknath Raul, Employee ID No.99067; (v) Mr. Gangaram Gurav, Employee ID.No.99656; and (vi) Mr. N.R. Sayyed, Employee ID No.99645, it is submitted by the appellant that these persons were employed by the contractors and were not engaged by the appellant on contractual basis nor was there any employer-employee relationship between the appellant and said six persons.

Our attention has been invited by Mr. Taneja, learned advocate for the appellant to para 6.4 of the Judgment dated 17-01-2020 passed by this Court in C.A. No.353/2020 to submit that the cases of these six persons cannot be considered at par with the others.

In response Mr. Tanwani, learned advocate for respondent No.1 has invited our attention to the decision of the High Court of Bombay dated 04.02.2005 in Writ Petition Nos. 1855/1992 along with 1453/1998 and particularly to para No.8 of the decision. He has also relied upon paragraph 26 of the Employees' Provident Funds Scheme, 1952.

This matter was dealt with from the perspective made clear in Para 6.4 of the judgment of this Court and, therefore, similar benefit cannot be extended to these six persons. We, however, reserve their rights to agitate the matter, if so advised, before any appropriate and competent Forum. In case, such grievance is raised, the same shall be considered purely on its own merits.

Finally, coming to the case of two employees dealt with in para 5 of the affidavit, it must be stated that their entitlement is clearly disputed by the appellant. The response filed by respondent No.1 does not substantially counter the assertions made in the affidavit of the appellant and as such their case needs no further consideration.

According to the office report, after following all the directions issued by this Court and defraying all the amounts as directed, sum of Rs. 80,10,480.54 is presently lying in fixed deposit which is to mature on 24.02.2021.

In the circumstances, it is directed:

(a) Upon maturity of the aforesaid fixed deposit, a sum of Rs. 2,18,243/- shall be made over to the Pawan Hans Provident Fund Trust in respect of five employees namely; (i) Mr. Siddesh Aiyarkar, (ii) Mr. Manish Jha, (iii) Mr. Bhalchandra Chaughule, (iv) Mr. Kuldeep Ithape and (v) Mr. Asnil Vadiya.

(b) The balance sum shall thereafter be made over to the appellant-Pawan Hans Ltd. alongwith interest accrued thereon on the aforesaid fixed deposit.

(c) These amounts shall be made over to the credit of the accounts, the details of which were furnished on the earlier occasion.

Needless to say that the employer having made its contribution, it is now for the employees to make good their contributions as early as possible and preferably within six weeks

from today.

With the aforesaid observations, this Miscellaneous Application is disposed of.

.....J.  
[UDAY UMESH LALIT]

.....J.  
[INDU MALHOTRA]

New Delhi ;  
February 12, 2021

ITEM NO.301 Court 4 (Video Conferencing)

SECTION III

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No. 1413/2020 in C.A. No. 353/2020

(Arising out of impugned final judgment and order dated 17-01-2020 in C.A. No. No. 353/2020 passed by the Supreme Court Of India)

PAWAN HANS LTD. &amp; ORS.

Petitioner(s)

VERSUS

AVIATION KARMACHARI SANGHATANA &amp; ORS.

Respondent(s)

(FOR ADMISSION (Office report for direction is to listed) )

Date : 12-02-2021 This petition was called on for hearing today.  
CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s) By Courts Motion, AOR

Mr. Puneet Taneja, AOR  
Mr. Manmohan Singh, Adv.  
Ms. Laxmi, Adv.

For Respondent(s) Mr G R Naik (Advocate)  
Mr. Anantha Narayana M.G., AOR  
Mr. Siddharth, AOR  
Mr. Amit Kumar Agrawal, Adv.

Ms.Madhavi Goradia Diwan ASG.  
Ms.Seema Bengani. Adv.  
Mr.Ayush Puri Adv.  
Mr.B.V. Balramdas. AOR

UPON hearing the counsel the Court made the following  
O R D E R

The Miscellaneous Application is disposed of in terms of the signed order.

Pending applications, if any, shall stand disposed of.

(INDU MARWAH)  
COURT MASTER (SH)

(PRADEEP KUMAR)  
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)