

Exh. - _____

**BEFORE SHRI JEETENDRA L. GANDHI, MEMBER,
INDUSTRIAL COURT, MUMBAI**

**COMPLAINT (ULP)No.64 of 2019.
(CNR No. MH1C01-000232-2019)**

Mr. Dattatray Pandurang Jadhav
& 2 ors. ...Complainants.

Versus

M/s. Prism Johnson Ltd.
& 3 ors. ... Respondents.

**O R D E R (Below Exhibit U-15)
(08.01.2020)**

- 01.** This is an Application for amendment of the Complaint, to which Respondents resisted by filing Say at Exhibit C-5.
- 02.** Read the Application and Say filed on it.
- 03.** It is the contention of the Complainants that due to mistake, error, some relevant facts are left to be pleaded in the Complaint by the Complainants. The proposed amendment is just and necessary to decide the real controversy between the parties and it does not change the nature of Complaint and Issues involved therein and it does not cause any prejudice to the other side. Hence, amendment be allowed. The

Application is supported by an affidavit.

04. The Respondents while resisting the Application, submitted that no specific reason is given as to why these pleadings were not made in the Complaint though the same were within the knowledge of the parties at the time of filing of the Complaint. It is submitted that the Complainants desired to add new terms of employment under which they were not governed and by the proposed amendment, there would be new cause of action and hence amendment application is liable to be dismissed. It is further submitted that mistake or error cannot be a cause for carrying the amendment in the Complaint. If amendment is allowed, grave harm will be caused to the Respondents, whereas no harm will be caused to the Complainants if the amendment is rejected.

05. I have given thoughtful consideration to the submissions canvassed by both the parties. In the reply, the Respondents have elaborately dealt with the proposed amendment in para 7 though the Application was not allowed and amendment is not carried out.

Further it appears that there is a mistake as claimed by the Complainants, on the part of the Advocate and for that Complainants cannot be made to suffer. Even the glance of the proposed amendment shows that it is in furtherance of the earlier pleading and there is no new cause of action or new case set out by the Complainants, but they are claiming that because of mistake, this pleading remained to be made. It further appeared that the proposed amendment is just and necessary to decide the real controversy between the parties and in order to avoid the multiplicity of litigation, the amendment in the Complaint is necessary. No prejudice is going to be caused to the Respondents as the Respondents are at liberty to file the Reply in detail. Hence, to meet the ends of justice, I allow the Application. However, as it is filed at a belated stage, it is subject to cost. Accordingly, I proceed to pass the following Order:-

ORDER

*1) Application is allowed subject to cost
of Rs.1500/-.*

ii) Complaints are directed to carry out the amendment within stipulated period.

Date:-08.01.2020.

*(JEETENDRA L. GANDHI)
Member,
Industrial Court, Mumbai*

Skn/-09.01.

INDUSTRIAL COURT