



ORDER BELOW EXH. 46

In Reference I.D.A. No. 01 of 2010.

CNR : MHLC110000202010

DeLaval Pvt. Ltd., Vs. Santosh Shinde [Dead] Through LRs

Order Dated : 10th June 2025.

1. This Reference is almost **15** years old.
2. This application is preferred by the second party employees. They are seeking amendment to their Statement of Claim.
3. It is the case of second party employees that, they have preferred this Reference against the first party company and have sought their reinstatement to their original or any equivalent post with continuity of services and all consequential service benefits. It is their contention that, the first party company is engaged in unfair labour practices and they have illegally retrenched them from their services.
4. It is the contention of second party employees that, the first party company has appeared in this Reference and they preferred their Written Statement. In their Written Statement, the first party company has put forth the theory of closure of the establishment. The company has contended that, services of their employees named in *Annexure 'A'* are terminated by the company. It is the contention of second party employees that, the action of

alleged closure is against the provisions of Sec. 25(f), 25(n) and 25(o) of the Industrial Dispute Act, 1947.

5. It is the contention of second party employees that, the alleged closure of first party company of manufacturing activities at Taswade, Karad is not legal, bonafide, real and genuine. Even after closing of manufacturing activities at Taswade, Karad, the first party company continued same production in India. The same production activities, business activities are still continued by the company in India without any actual break. Hence, the production and business activities of company are not closed. The company is continuously running its business of selling same products till today. They are manufacturing their products in India. Therefore, the second party employees are entitled for reinstatement with continuity of services, full back wages and all other consequential service benefits.
6. Second party employee further contended that, the aforesaid facts came to their knowledge recently. These are subsequent developments which took place after filing their Reference and Statement of Claim. For the complete adjudication of this Reference and determination of real controversy between the parties it is necessary to bring the aforesaid facts on record by insertion of Para 21(A) to 21(C) in their Statement of Claim in regard the alleged closure of the first party company. The proposed amendment in their Statement of Claim will not change

the nature of the Reference. They are not introducing any new case. The proposed amendment is necessary for complete adjudication of this Reference and determination of real controversy between the parties.

7. First party company forcefully opposed the claim and contentions mentioned in the Amendment Application by filing their say. They denied the entire contents of the application in toto and contended that, the application and its contents are not true, not legal and are not bonafide. The proposed amendment will change the entire nature and scope of the Reference.
8. It is the contention of the first party company that, by way of proposed amendment, the second party employee wants to challenge the closure of the company. They wants to add pleadings in regard business activities and business activities of the company across India. It is their case that, the fact about the closure of the company was well within the knowledge of the second party employee. They have taken a specific pleas in their reply and written statement. The first party company has closed its establishment and activities with effect from 26/06/2009. This fact was within the knowledge of the second party employee since the institution of this Reference.
9. First party company contended that, the application is vague and casually drafted. Second party has not provided the specific details about the alleged place of production and manufacturing of products. Material

particulars are missing in the application. Therefore, the application being vague is not maintainable and is liable to be rejected.

10. First party company further contended that, the proposed amendment seeks to add the prayer of reinstatement with continuity of services and consequential service benefits. The second party desires to challenge their termination which is a completely separate and difference cause of action. The second party needs to file a separate proceeding in that regard. However, this plea is now hopelessly barred by Limitation. It is the contention of first party company that, since this new plea is now barred by limitation, second party wants to insert it by way of proposed amendment i.e. a back door entry. This is abuse of process of law.
11. First party company further contended that, the second party made a similar prayer in Comp [ULP] No. 19/2009 in regard their reinstatement, however, it was not allowed. The application is preferred after a prolonged delay of 14 years. Second party has not provided any reasonable or justifiable reason to explain this delay. The fact about the alleged closure was within their knowledge since institution of this Reference, yet this application is preferred at a belated stage with a malicious intention to prolong and delay the trial. The application is therefore not maintainable and is liable to be rejected.
12. Heard both parties at length.

13. Perused application, say and the Record and Proceedings.
14. In the case in hand, the second party employees have alleged that, the first party company is engaged in unfair labour practices. It is their contention that, they are illegally retrenched by the company and therefore they are seeking their reinstatement to their original or any equivalent post with continuity of services and all consequential service benefits. By way of this application second party employees are desirous to challenge the closure of establishment by the first party company. They want to insert Para 21(A) to 21(C) in their Statement of Claim in regard the alleged closure of the first party company. The first party company has challenged the application on the ground of delay. It is their contention that, there is delay of almost 14 years in preferring this application. The theory of closure is not the future development. They have specially alleged about the alleged closure in their written statement. Therefore, the employees were aware about it since the date of filing their written statement in the year 2014. It is the contention of first party company that, this Reference is almost 15 years old. Second party employees are not taking any steps to lead their evidence. They are delaying the case with ulterior motives. This application is one of the delaying tactics.
15. I have given conscious thought to the arguments of both the parties. One of the ground to allow parties to amend

their pleadings is to avoid multiplicity of proceedings. In the case in hand second party employees are challenging their alleged illegal retrenchment. One of the ground they want to allege is the illegal closure of the establishment by the first party company.

16. It is desirable that, all the disputes relating to the same subject matter between the same parties decided in the same lis and the parties shall not be required to institute multiple litigation with similar prayers. However, it is the pertinent to note that, there is a long delay in preferring this application. The first party company has alleged in their written statement that, there is closure of establishment in June 2009. The written statement is filled in the year 2014 and this application seeking amendment is filed in year 2025. Thus *prima facie* there is delay of about 10 years in preferring this amendment application. However, it is settled law that, delay cannot be the sole ground to reject the amendment application. The delay caused can be compensated by imposing appropriate cost. The ground of closure of establishment is one of the ground of retrenchment. Hence, this point is necessary for the purpose of determining the real question in controversy between the parties. Furthermore, the proposed amendment will only add an additional ground of closure of establishment, no new prayer will be added, hence there will be no change in the nature of this Reference or Statement of Claim. The second party

employees can therefore be permitted to amend their Statement of Claim on payment of Cost.

17. In regard amount of cost is concerned I am of the opinion that substantial cost is required to be imposed. It was the argument of first party company that, this application is a delaying tactics. The second party employees are not leading evidence in this case and they are filing such application with an intention to drag the litigation for years together.
18. The Reference is 15 years old. The evidence of parties are not yet started. The Written Statement was filed in the year 2014. It is specifically mentioned in the Written Statement that, the first party company is permanently closed w.e.f June 2009. Yet, it took 10 long years to second party employees to prefer this application. Hence, I found substance in submission of first party company that the second party employees are prolonging the case. Hence, I am inclined to impose substantial cost while allowing this application. I therefore pass following Order.

ORDER

1. Application is allowed subject to payment of Cost of Rs. 3,000/-. [*Rupees Three Thousand Only*]
2. The Amount of Cost shall be deposited by the second party employees to the District Legal

Services Authority, Satara within one month failing which this application shall be treated as rejected.

3. After payment of cost, the second party shall be at liberty to carry out the proposed amendment and shall file amended copy of Statement of Claim forthwith.
4. Considering the age of the Case co-operation of the parties is solicited for early disposal of this 15 years old Reference.

Place : Satara.

Date : 10th June 2025.

[Nikhil A. Gupta]
Presiding Officer,
Labour Court, Satara.