

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.4999/2002.

BAJAJ AUTO LTD.

Appellant (s)

VERSUS

R.P. SAWANT & ORS.

Respondent (s)

(With Appln(s). for intervention/impleadment & Office Report)

WITH

C.A.Nos.5002,5003,5005,5025,5026,5027 & 5028 of 2002

(With applns.for early hearing & recalling the order & office report)

Date : 11/09/2003 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE B.N. AGRAWALFor Appellant (s)M/s.Ashok H.Desai,JP Cama,Sr.Advs.
M/s RY Joshi,Ghuge RV,Arjun Bobde,Pragya Baghel,Nandini Gore,Ashish Jha,DN Ray,
RN Karanjawala,Padmalakshmi Nigam,Advs.For Respondent (s)
Mr.KK Singhvi,Sr.Adv.
M/s Prabhakar Joshi,RS Hegde,RB Muley,
AB Dhongde,Avinash Salve,Savitri Pandey,
PP Singh,Advs.Mr.Shekhar Naphade,Sr.Adv.
M/s Nitin S.Tambwekar,PM Gore,
C Ravichandran Iyer,BST Sai,Advs.Mr.KK Singhvi,Sr.Adv.
M/s.DM Nargolkar,Bhomale Deshmukh,Advs.Mr.SK Dholakia,Sr.Adv.
M/s RK Adsure,Mukesh K.Giri,Advs.

Mr.GB Sathe,Adv.

M/s.Bharat Sangal,Sangeeta Panicker,
RK Kumar,Advs.Mr.CA Sundram,Sr.Adv.
M/s.Vishwajit Singh,Tripurari Ray
(Mrs) Rohini Musa,Advs.

M/s.P.Venugopal,PS Sudheer,KJ John,Advs.

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

Mr.Jamshed P. Cama, learned senior counsel resumed his arguments in the morning and concluded

at 12.30 P.M. Civil Appeal No.4999/2002 is disposed of in terms of the signed order. Thereafter, Mr.Cama commenced his arguments in C.A.No.5002/2002 and concluded at 2.20 P.M. followed by short reply of Mr.Singhvi, learned senior counsel for the workmen. Civil Appeal 5002/2002 is disposed of in terms of the signed order. Rest of the matters to come up on Tuesday, the 16th September, 2003 as 1st part-heard.

[Naresh Kumar] [S. Thapar] [VP Tyagi]
AR-cum-PS PS to Registrar Court Master

[Common signed order is placed on the file.]

LIST OF BOOKS REFERRED:

Apart from Compilation I and II of judgments, following books were referred:

- 1)2002(9) SCC 232
 - 2)1976 Labour Industrial Cases p.4
 - 3)2001 (3) SCC 101 at 108
- IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4999 OF 2002

Bajaj Auto Ltd.

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APPELLANT (S)

VERSUS

R.P. Sawant & Ors.

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RESPONDENT (S)

(With C.A.No.5002 of 2002)

O R D E R

The matter has been heard at considerable length. The parties have settled. Mr.Jamshed P.Cama, learned senior counsel for the appellant states that the workmen involved in this appeal would be made permanent and may be transferred from Pune to Maharashtra or outside Maharashtra to the Branches of the Company, Depots, the Suppliers or dealers of the Company. There would, however, be no change in condition of service of the workmen involved. The Company would protect the emoluments and service conditions of the workmen subject to the condition that if hours of work and canteen facilities or the like are different in the transferred position/station, the transferred workmen would not decline the transfer on the ground of aforesaid conditions being different. Mr. KK Singhvi, learned senior counsel representing the workmen accepts the aforesaid statement made by Mr.Cama.

Further, learned counsel Mr. J.P. Cama and Mr. Singhvi submit that Respondent No.39 - Subhash N. Pawar and Respondent No.49 - Kishor R. Patil whose services were terminated and were relieved on 4th June, 1997 would be made permanent with effect from the date of relieving i.e. 4th June, 1997 but they would not be entitled to any back wages. For all other purposes they will also be covered by the aforesaid Order.

In respect of Respondent No.28 - Nitin A. Kurlekar who resigned on 8th April, 2001, Respondent No.122 - Manohar B. Swami who was dismissed with effect from 25th March, 2001, Respondent No. 284 - Hemant Kumar P. Ikale whose services were terminated from 3rd January, 1998, Respondent No.391 - Rupesh M Patil, who resigned on 3rd June, 2000 and Respondent No.376 - Uday Singh Y. Babar who was dismissed on 16th June, 2003, it is agreed that the aforesaid protection of absorption would not be available and this order will not have the effect of recalling the resignation or termination, as the case may be. Their termination/resignation will stand. In respect of Respondent No.181 - Ramdas N. Atole, who is said to have expired on 4th May, 2003, it is a

greed, that his legal representatives would get retiral benefits, if any, in accordance with the Rules of the Company applicable to the permanent employees.

As prayed by learned counsel, the appeal is disposed of in terms of the aforesaid statements of Mr.Cama and Mr.Singhvi. In view of the settlement the questions decided by the High Court are left open and will not be treated as precedent on law or on fact.

Civil Appeal No.5002 of 2002:

The matter has been settled between the parties. It is agreed that the order of re-instatement in favour of the workmen be set aside and instead the appellant - Management would pay to each of the workmen a lump-sum amount calculated at 65 days salary, inclusive of all allowances, for the number of years each workman has actually worked irrespective of the days a workman may have put in in a year. It is further agreed that the calculation would be made on the basis of work during a calendar year and that the calendar year in which a workman may not have worked at all would be kept out of consideration while calculating the amount. While calculating the salary for each workman the minimum salary that would be taken into account would be Rs.8,000/- per month subject to the condition that if on the date of termination the salary of any particular workman is more than the calculation would be on the actual last drawn salary. The calculation in above manner would be made for the period up to the date of termination in the year 1997/1998. For the period after termination till date, the basis of calculation would be lump-sum three years of service on the basis aforesaid, namely, 65 days for each year, i.e. salary for 195 days. The payment so calculated and made would be in full and final payment of all claims of the workmen and the workmen will have no further claim from the Company. The appeal is disposed of in the above terms agreed by learned counsel for the parties. The impugned judgment would not be treated as a precedent either on fact or on law.

Rest of the matters to come up on Tuesday the 16th September, 2003 as 1st part heard.

.....J.

(Y.K. SABHARWAL)

.....J.

(B.N. AGRAWAL)

New Delhi,

September 11, 2003.