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C.A.No. 4999 OF 2002
ITEM No.301

Court No. 3

SECTION XV
A/N MATTER

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

IA No 11 In Civil Appeal No.4999/2002

BAJAJ AUTO LTD.

Appellant (s)

VERSUS

R.P. SAWANT & ORS.

Respondent (s)

(With Appln(s). for modification of Court's Order AND with Office Report)

With

SLP(C)No.597/2004 (With appln.(s) for permission to place addl.documents on record and office report)

SLP(C)No.5850/2004 (With appln.(s) for stay and with prayer for interim relief)

Date : 27/09/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s)Mr. J.P.Cama, Sr.Adv.

Mr. Rajiv Joshi, Adv.

Mr. R.N. Karanjawala, Adv.

Ms. Nandini Gore, Adv.

Ms. Pragya Singh Baghel, Adv.

Mrs Manik Karanjawala,Adv.

For Petitioner inMr.P.P.Rao, Sr.Adv.

in SLP(C)597/04Ms. Indra Jaisingh, Sr.Adv.

& SLP(C) 5850/02Mr. Sandeep S.Tiwari, Adv.

Ms. Mahalakshmi Pavani, Adv.

Mr. G.Balaji Iyer, Adv.

Mr.D.M. Nargolkar, adv.

SLP(C) 5850/04Mr. Shiv Sagar Tiwari, Adv.

For Respondent (s)Mr. P.P. Rao, Sr.Adv.

Ms. Indra Jaisingh, Sr.Adv.

Mr. Sandeep S.Tiwari, Adv.

Ms. Mahalakshmi Pavani, Adv.

Mr.G.Balaji Iyer, Adv.

Mr.D.M.Nargolkar, Adv.

Mr. Gopal Balwant Sathe,Adv.

Mr. Bharat Sangal,Adv.

Mr. C. Ravichandran Iyer,Adv.

Mr. Vishwajit Singh,Adv.

Mr. Gopal Balwant Sathe,Adv.

Mr. Bharat Sangal,Adv.

Mr. C. Ravichandran Iyer,Adv.

Mr. Gopal Balwant Sathe,Adv.

For ApplicantsMr. P.Venugopal, Adv.

Ms. Surekha Raman, Adv.Ms. Divya Jaisankar, Adv.

for K.J. John & Co.

For State of MaharashtraMr. Ravindra K. Adsure, Adv.

UPON hearing counsel the Court made the following

O R D E R

The matters are disposed of in terms of the signed order.

(SUKHBIR PAUL KAUR)

COURT MASTER

(V.P.TYAGI)

COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

I.A. NO.11

IN
CIVIL APPEAL NO.4999 OF 2002

BAJAJ AUTO LTD.....APPELLANT(S)

VERSUS

R.P. SAWANT & ORS.....RESPONDENT(S)

WITH SLP(C) NO.597/2004
AND SLP(C) 5850/2004

O R D E R

This application and special leave petitions arise out of the Order that was passed on the consent of the parties in Civil Appeal No.4999 of 2002. The applicants/employees of Bajaj Auto Limited are aggrieved by their posting at various places in the country in implementation of the Order passed by this Court in the said appeal. A grievance of the similar nature was also made before the Industrial Court. On perusal of the Order of the Industrial Court dated 30th June, 2004, in

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particular para 24 thereof, we directed on 9th August, 2004 that the employees shall file representation with the management in respect of real genuine grave cases where workmen may be feeling various difficulties at the transferred places. We directed that on receipt of that representation the management will consider those cases. Para 24 of the Order dated 30th June, 2004 passed by the Industrial Court reads as under :-

"While concluding the Judgment, I would like to mention that all the complainants are unfortunate in the sense that they are transferred far away from their original place of work and native place. We can imagine the situation and the state of affairs of the family of the workman, who is transferred out of the State. Transfer, in the service, not only affects the servant, but also his entire family. The problems such as local language, education of the children, likely to be faced by the complainants, are common, but cannot be ignored. These are the practical difficulties. The respondent Company should come forward and assist the complainants for settling and solving their problems at the transferred places. Moreover, the respondent Company may think of bringing the complainants, who are transferred to the State like Jharkhand, Jammu and Kashmir, Punjab, West Bengal, Uttaranchal, Tamil Nadu, Bihar, Haryana, Chattisgarh, Kerala, North-east to their such other stations or places, which are adjacent or near to the State of Maharashtra. There is nothing wrong in reconsidering the requests of the complainants for their re-transfer to some suitable and convenient places, which are in near to the State of Maharashtra. The respondent should consider such representations with full sympathy and see that

their workers are suitably and conveniently placed, on account of their transfer, without making this issue as

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prestigious issue, the respondent Company and the complainants, who are posted far away should come together on this point, and with free mind they should find out the solution by placing such complainants at the reasonable distance from the State of Maharashtra. From social point of view and on the humanitarian ground, I express my above view, and I am confident that the respondent Company will respond to my above mentioned views, by taking some steps to that effect, as and when the complainants would prefer representations for their placing either near the State of Maharashtra. I reiterate that without disturbing the settlement arrived at, between the parties, this can be done."

Mr. J.P. Cama, learned senior counsel for the management submits that instead of some of the employees filing representation in terms of the Order dated 9th August, 2004 almost all the employees made representations. Be that as it may, learned Counsel has filed in Court a Note which states that out of 387 workmen involved in the matter, 31 had taken voluntary retirement under the Voluntary Retirement Scheme. Their places of posting are indicated in para 'F' of that Note. The note also gives the particulars of 16 vacancies in five States where 16 workmen can be posted. Mr. Cama submits that 47 workmen can be accommodated in these 47 positions in various States.

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Mr. P.P. Rao and Ms. Indira Jaising, learned senior counsel on the other hand submit that all the workmen or most of them ought to have been appointed in or around the State of Maharashtra.

In view of the consent order which resulted in disposal of the aforesaid appeal by this Court, it is not possible to accept this contention except noticing that to the extent possible the management should try to accommodate as many persons in Maharashtra or in station around State of Maharashtra. That aspect having regard to difficulties being faced by the workmen has been taken note of in para 24 of the afore-quoted order of the Industrial Court. The management should keep in view the spirit of the order of industrial court in future as well as and when the occasion arises.

In so far as the aforesaid vacancies (31 + 16) are concerned, the learned Counsel for the workmen, Mr. Sandeep S. Tiwari may give to the management within four

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weeks the places where they would like the 47 workers with their names to be adjusted and acting on that the necessary orders will be passed by the management.

The Undertaking given on behalf of the management is extended till end of October, 2004 and would stand vacated with effect from 1st November, 2004.

With these observations, these matters are disposed of.

.....J.
(Y.K.SABHARWAL)

.....J.
(B.N. AGRAWAL)

NEW DELHI;
SEPTEMBER 27, 2004