



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1049 OF 2011

Rolta India Limited
V/S
1. Anil Vishwanath Nandoskar
2. The Presiding Officer,
11th Labour Court, Mumbai.
....Petitioner
....Respondents

**WITH
WRIT PETITION NO.1050 OF 2011**

Rolta India Limited
V/S
1. Milind Krishna Gawade
2. The Presiding Officer,
11th Labour Court, Mumbai.
....Petitioner
....Respondents

**WITH
WRIT PETITION NO.1051 OF 2011**

Rolta India Limited
V/S
1. Sanil Suresh Manjrekar
2. The Presiding Officer,
11th Labour Court, Mumbai.
....Petitioner
....Respondents

**WITH
WRIT PETITION NO.1537 OF 2011**

Milind Krishna Gawade
V/S
1. Rolta India Limited
2. The Presiding Officer,
11th Labour Court, Mumbai.
....Petitioner
....Respondents

**WITH
WRIT PETITION NO.1565 OF 2011**

Anil Vishwanath Nandoskar
V/S

....Petitioner

1. Rolta India Limited
2. The Presiding Officer,
11th Labour Court, Mumbai.

....Respondents

**WITH
WRIT PETITION NO.1566 OF 2011**

Sanil Suresh Manjrekar
V/S

....Petitioner

1. Rolta India Limited
2. The Presiding Officer,
11th Labour Court, Mumbai.

....Respondents

Ms. Gyanika Kochar with Ms. Ojaswi Gupta *for Petitioner in WP Nos.1049 of 2011, 1050 of 2011, 1051 of 2011 and for Respondent No.1 in WP Nos.1565 of 2011, 1566 of 2011 and 1537 of 2011.*

Mr. Vivek Patil with Mr. Devesh Sawant and Mr. Afsar Ansari i/b Vivek Patil & Associates, *for the Petitioner in WP Nos.1565 of 2011, 1566 of 2011, 1537 of 2011 and for Respondent in WP Nos.1049 of 2011, 1050 of 2011 and 1051 of 2011.*

**CORAM : SANDEEP V. MARNE, J.
RESERVED ON : 22 SEPTEMBER 2026.
PRONOUNCED ON : 01 OCTOBER 2026.**

JUDGMENT :

1. These are cross Petitions filed by the employer and by the employees challenging the Awards dated 7 February 2011 passed by the

Presiding Officer, Eleventh Labour Court, Mumbai, answering the References partly in the affirmative. The Labour Court has not granted reliefs of reinstatement, continuity of service and back wages. Instead, the Labour Court has directed payment of compensation of Rs. 2,50,000/- alongwith interest at the rate of 6% per annum from the date of References, i.e. 21 December 2005 till realization by holding the terminations to be illegal.

2. The workers/employees were employed by the employer on various dates as Data Preparation Operators. The employer transferred the employees from Mumbai to various places as under:

Anil Vishwanath Nandoskar – Chennai,
Sanil Suresh Manjrekar – Chandigarh, and
Milind Krishna Gawade – Calcutta

3. The employees challenged the transfer orders by filing a complaint of unfair labour practice before the Industrial Court at Mumbai and prayed for interim relief. However, the Industrial Court rejected the application for interim relief. In view of the rejection of prayer for interim relief, the employees reported for duties at their respective transferred places at Chennai, Chandigarh and Calcutta. It appears that the workers applied for leave and returned to Mumbai. By orders dated 7 June 2004, which were branded as “charge sheet-cum-dismissal orders”, the services of the workers were terminated. The employees raised demands for their reinstatement. The Deputy Commissioner of Labour made references to the Labour Court. The employees filed their

Statements of Claim, which were resisted by the employer by filing Written Statements. Parties led evidence in support of their respective claims. By impugned Awards dated 7 February 2011, the Labour Court proceeded to answer the References partly in the affirmative holding the termination to be illegal. However, in lieu of directing reinstatement and/or back wages, the Labour Court directed payment of compensation of Rs. 2,50,000/- each to the employees alongwith interest at the rate of 6% per annum from the date of References, i.e. 21 December 2005.

4. Both the employer as well as the employees are aggrieved by the Awards dated 7 February 2011 and have filed the present Petitions. By orders dated 4 July 2011, Petitions filed by the employer have been admitted and implementation of the impugned Awards has been stayed on condition of the employer depositing in this Court the awarded amount of compensation. Accordingly, the awarded compensation has been deposited by the employer in this Court.

5. Ms. Kochar, the learned counsel appearing for the employer submits that the company - Rolta India Limited has been subjected to Corporate Insolvency Resolution Process (**CIRP**) and a moratorium was imposed in respect of the company by order dated 19 January 2023. She submits that the resolution plan in respect of the Company has been accepted and new management has taken over the Company with effect from 15 December 2023. She therefore submits that the “clean slate” principle would apply in the present case and in absence of registration of claims by the workers/employees before the Resolution Professional,

their claims are deemed to have been extinguished. That the new management cannot be saddled with the liability in respect of the Company, which stands extinguished. She relies on the judgment of this Court in **Ahmednagar Forgings Limited v. Dongare Ganesh D.**¹

6. Ms. Kochar further submits that the amount deposited in this Court is an asset of the corporate debtor, to which the new management of the Company is lawfully entitled. She relies on judgment of this Court in **Siti Networks Limited v. Rajiv Suri**² and **Reliance Naval and Engineering Limited v. M/s. Afcons Infrastructure Limited**³. She also relies on the judgment of the Delhi High Court in **McNally Bharat Engineering Company Limited v. Metso India Pvt. Ltd.**⁴

7. Ms. Kochar accordingly prays for disposal of the Petitions in view of acceptance of the resolution plan with permission to the new management of the company to withdraw the entire deposited amounts alongwith accrued interest.

8. *Per contra*, Mr. Patil the learned counsel appearing for the employees submits that the impugned awards have been passed well before subjecting the Company to CIRP. He submits that the rights of the employees are crystallized under the impugned Awards. That therefore subsequent initiation of CIRP or acceptance of resolution plan cannot have the effect of extinguishment of crystallized rights of the workers.

1 2026:BHC-AUG:1064

2 2024 SCC OnLine Bom 3550

3 2025 SCC OnLine Bom 6082

4 OMP (COMM) 362/2018, decided on 3 August 2026

He submits that amount deposited in this Court cannot be treated as an asset of the company. That the deposit is made in pursuance of order passed by this Court and therefore, it is an amount under control of this Court. In support, he relies on judgment of Division Bench of this Court in **Rajendra Prasad Bansal vs. Reliance Communication Limited**⁵.

9. Mr. Patil further submits that though employees have challenged the impugned Awards, they would be satisfied if the entire deposited amounts alongwith accrued interest are permitted to be withdrawn by them. That the employees are no longer desirous to press relief for reinstatement or back wages at this distant point of time. That the employees have already given up their claims for reinstatement and back wages. That though terminations are found to be illegal, the employees are no longer pressing relief of reinstatement or back wages since they have already secured alternate jobs. However, the relief that needs to be granted to them is permission to withdraw the deposited amounts with accrued interest.

10. Rival contentions urged on behalf of parties now fall for my consideration.

11. In the present case, the employer-Rolta India Limited had terminated the services of the three employees on allegation of refusal to join and work at transferred places. It was the contention of the workers/employees that they were deliberately transferred at far-off

5 2023 SCC OnLine Bom 33

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places with a view to prevent them from undertaking unionized activities. Be that as it may. Validity of transfers was not the subject matter of challenge before the Labour Court. It appears that separate Complaints of unfair labour practice were filed by the employees before the Industrial Court and after being unsuccessful in securing any interim relief from the Industrial Court, the employees did report at the transferred places. However, it is company's contention that the employees refused to work at the transferred places and they returned to Mumbai. Without holding any inquiry and in total violation of principles of natural justice, the employer proceeded to dismiss the employees by issuance of a composite charge-sheet-cum-dismissal order dated 7 June 2004. The employer was unable to justify its action of dismissal before the Labour Court. The dismissal is found to have been effected in gross violation of principles of natural justice. The Labour Court has accordingly set aside the dismissal/termination orders and has held the dismissal/termination orders to be illegal. No submissions are canvassed on behalf of the employer as to how the said finding in respect of illegal termination is perverse. I accordingly proceed to uphold the findings recorded by the Labour Court that termination of the workers/employees in the present case is illegal.

12. Though the employees succeeded in establishing that their termination/dismissal was illegal, the Labour Court did not grant relief of reinstatement, continuity or back wages in their favour. Instead, they have been awarded compensation of Rs.2,50,000/- each along with interest. Though employees had challenged award of compensation and

had pressed for relief of reinstatement and backwages in their own Petitions, Mr. Patil has fairly conceded that the employees no longer desire to work with the Company and have accordingly given up the challenge to the Awards passed by the Labour Court.

13. In view of the above discussion, the impugned Awards passed by the Labour Court will have to be upheld.

14. As observed above, while admitting the Petitions, this Court had directed the employer to deposit the awarded amount of compensation. Accordingly, various amounts have been deposited in each of the Petitions by the employer, which are invested by the Registry in fixed deposits. The maturity value of various fixed deposits appears to be as under:

Anil Vishwanath Nandoskar - Rs.5,30,224/- and Rs.2,05,838/-,

Milind Krishna Gawade – Rs.5,30,224/- and Rs.2,12,050/-,

Sanil Suresh Manjrekar – Rs.5,30,224/- and Rs.2,05,837/-

15. The above are approximate amounts depending on maturity of fixed deposit receipts. The employees are satisfied if they are permitted to withdraw the deposited amounts alongwith interest.

16. However, Ms. Kochar has strenuously opposed withdrawal of deposited amounts by the employees, contending that the said amounts are assets of the corporate debtor, which is now the asset and entitlement of the new management. She has submitted that claims of

the employees were not registered at the time of sanctioning of the resolution plan, and therefore, the claims have now extinguished. She has strenuously relied on judgment of coordinate bench of this Court in ***Ahmadnagar Forgings Limited*** (supra). In that case, the order of the Industrial Tribunal was challenged by the Company before this Court on singular ground that the new management, which was the successful resolution applicant, had received the entire company on a clean slate and was therefore neither bound to reinstate the employees nor pay any wages to them. It was contended that no specific provision was made for payment of any wages to the employees in the approved resolution plan. This Court held in paragraphs 13, 15 to 18 of the judgment as under:

13. The petitioner was declared as a successful resolution applicant and the resolution plan was approved by the NCLT vide its order dated 14.05.2024. In the resolution plan, provision is not made qua the claim of the respondents / employees.

LAW ON THE SUBJECT:-

15. In the instant case, the application moved under section 33A of the Industrial Disputes Act was pending. During the moratorium, the proceedings were under suspension and after moratorium period the matters are now proceeded further. The question before this court is, whether the proceedings could have been continued further before the Industrial Tribunal after the acceptance of resolution plan. However, this issue is no more in res integra as the same is concluded by the Hon'ble Supreme Court in the case of *Electrosteel Steel Limited (Now M/S Esl Steel Limited vs. Ispat Carrier Private Limited, Civil Appeal No.2896 of 2024, dated 21.04.2025*, wherein the Hon'ble Supreme Court by relying upon the earlier Judgments at paragraphs no.50, 50.1,51.52 has held that it is now well settled that once resolution plan is duly approved by the adjudicating authority under Sub-section 1 of Section 31 all claims which are not part of the resolution plan shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect of the claim which is not a part of the resolution plan. In the case of ***Essar Steel India Ltd. Committee of Creditors Vs. Satish Kumar Gupta, (2020) 8 SCC 531***, the Hon'ble Supreme Court had categorically declared that a successful resolution applicant cannot be faced with undecided claims after the resolution plan is accepted. Otherwise this would amount to a hydra head

popping up which would throw into uncertainty the amount payable by the resolution applicant. It has been further observed that the lifting of the moratorium does not mean that the claim of the respondent would stand revived notwithstanding approval of the resolution plan by the adjudicating authority. Moratorium is intended to ensure that no further demands are raised or adjudicated upon during the corporate insolvency resolution process so that the process can be proceeded with and concluded without further complications.

CONCLUSION:-

16. Considering the law as declared by the Hon'ble Supreme Court and also considering the relevant clauses of the resolution plan, there is no scope left for payment of any dues by the petitioner / company and the petitions will have to be necessarily allowed. In view of the resolution plan, as approved, the claim of the respondents would automatically stand extinguished.

17. It is argued by the respondents / employees that since their claims are yet to be adjudicated upon, no claim could have been raised before the resolution professional, in view of the Judgment of the Hon'ble Supreme Court in the case of **Electrosteel Steel Limited (Now M/S Esl Steel Limited vs. Ispat Carrier Private Limited)**, the Judgment of the Orissa High Court in the case of **M/s. Ferro Alloys Corp. Ltd., Bhadrak Vs. The Presiding Officer, Labour Court, Bhubaneswar and another, dated 29.08.2023**, cannot be relied upon.

18. However, by virtue of the Judgment of the Hon'ble Supreme Court in the case of **Electrosteel Steel Limited (Now M/S Esl Steel Limited vs. Ispat Carrier Private Limited)** as noted above, no further claim of the respondents / employees could have been adjudicated by the Industrial Tribunal and Labour Court. Even the claim for reinstatement without back-wages cannot be considered by the Labour Court / Industrial Tribunal. The proceeding pending before the Labour Court, Aurangabad bearing Reference (IDA) No.61 of 2014 stands terminated. The impugned order dated 02.07.2025, passed by the Presiding Officer, Labour Court-II, Aurangabad and the impugned orders dated 21.01.2025, passed by the Presiding Officer, Industrial Tribunal, Aurangabad are quashed and set aside.

17. In my view, however, there is a marked difference between the facts of the case in **Ahmadnagar Forgings Limited** (supra) and the present case. In **Ahmadnagar Forgings Limited**, CIRP commenced against the Company on 15 December 2017, on which date moratorium in terms of Section 14 of the Insolvency and Bankruptcy Code, 2016

(IBC) was also imposed, whereunder institution or continuation of all pending proceedings against the company was prohibited. The resolution plan was submitted by the consortium, which was approved by the Committee of Creditors. At that time, the proceedings before the Labour Court initiated by the workers/employees were pending. The resolution plan was approved by NCLT on 14 May 2024, under which the new management took over the Company. The new management applied to the Labour Court seeking disposal of the Reference in view of approval of resolution plan. However, the Labour Court rejected the application of the Company holding that the claim of the workmen therein for reinstatement was tenable. The order passed by the Labour Court was under challenge before this Court.

18. On the other hand, facts of the present case are entirely different. The references made at the instance of the workers/employees are decided by Awards dated 7 February 2011, when the Company was not under the CIRP. Thus, adjudication in respect of termination of the employees has already taken place on 7 February 2011. The CIRP was initiated subsequently on 19 January 2023 and the resolution plan has been approved on 15 December 2023. Thus, as on the date of initiation of CIRP and acceptance of the resolution plan, the adjudication in respect of claims for reinstatement was already made. Rights of the employees to receive benefits under Awards dated 7 February 2011 had crystallized. In the present case, both employer as well as employees challenged Awards dated 7 February 2011. The challenge raised by employees is virtually withdrawn as they are satisfied with the impugned

Awards and are in fact willing to accept lesser amounts than the one awarded under the impugned Awards. If provisions of Section 14 of IBC are strictly applied to the Petitions filed by the Company, the same are abated. Thus, Awards dated 7 February 2011 have attained finality.

19. In pursuance of Awards dated 7 February 2011, the employer has deposited various amounts in this Court. On account of pendency of Petitions filed by the employer, the employees did not apply for withdrawal of the deposited amounts. Otherwise, on account of abatement of Petitions filed by the employer, the right of the employees to withdraw the deposited amounts has crystallized.

20. There is a debate amongst the parties as to whether the amount deposited in this Court would be part of asset of the corporate debtor and whether the new management is entitled to exercise rights in respect thereof or whether the employees can be permitted to withdraw the same. In labour-related litigations, when the employer challenges the order of an industrial adjudicator, which envisages payment of monetary sums to the workmen, the High Court quite often secures full or part of the awarded amount as a precondition for entertainment of the employer's challenge. In a case where the Award of the Labour Court directs reinstatement and backwages, the High Court may stay the reinstatement upon condition of deposit of the full or part of the back wages. This is done to ensure that the employers do not embroil the workmen in endless litigation spree and there are consequences for the employer who decided to challenge the award of reinstatement and back

wages. In gratuity-related matters, the employer is statutorily required to deposit the entire awarded amount of gratuity as a pre-condition for entertaining appeal filed by the employer under second proviso to Section 7(7) of the Payment of Gratuity Act, 1972.

21. Thus, the deposited amount in the Court by the employer actually belongs to the workman/employee in labour-related disputes. It is brought before the Court to secure the entitlement of the employee during pendency of the challenge to the order of the court/authority before the higher forum. Payment thereof to the employee is delayed during pendency of the challenge.

22. If deposited amount of gratuity during pendency of Appeal before the Appellate Authority is treated as an asset of the employer under CIRP with entitlement of the new management to receive the same, the employee would be deprived of gratuity. In such circumstances, the new management of the employer will withdraw the deposited amount of gratuity by application of clean slate principle. Is this the legislative intent? The answer, to my mind, appears to be in the negative.

23. Both the learned counsel have relied on judgments in support of their pleas as to whether the deposited amount would be the asset of the corporate debtor or not. Mr. Patil has relied upon judgment of Division Bench of this Court in **Rajendra Prasad Bansal** (supra) whereas Ms. Kochar had relied on subsequent Division Bench judgments in **Siti Networks Limited** and **Reliance Naval Engineering Limited** (supra) and of Single Judge of Delhi High Court in **McNally Bharat Engineering**

Company Limited (supra). In my view, it is not necessary to decide the issue as to whether amount deposited in this Court would be asset of the corporate debtor or not. This is because the amounts are deposited in pursuance of the Awards dated 7 February 2011, which have attained finality. In the present case, the deposited amount is actually the entitlement of the employees. This Court could have permitted withdrawal of the deposited amounts before initiation of CIRP against the employer. However, in the facts of the present case, the employees did not apply for withdrawal of the deposited amounts. Therefore, merely because the amounts have remained deposited in this Court, the same would not *ipso facto* mean that the new management of the employer would be entitled to withdraw the same.

24. In view of the above discussion, the entire deposited amounts alongwith accrued interest can be permitted to be withdrawn by the three employees.

25. I accordingly proceed to pass the following order:

- i) The Awards dated 7 February 2011 are not disturbed. However, it is clarified that the entire deposited amount along with the accrued interest shall be treated as compensation payable to the employees.
- ii) Accordingly, the entire amounts deposited by the employer in this Court together with accrued interest is permitted to be withdrawn by the employees, which shall represent the

amount of compensation awarded to them by the Labour Court.

- iii) Beyond the withdrawn amounts, the employees shall not be entitled to any further service-related benefits from the employer.

26. With the above directions, all the Writ Petitions filed by the employer and the employees are **disposed of**.

(SANDEEP V. MARNE, J.)

27. After the judgment and order is pronounced, the learned counsel appearing for employer seeks stay of operative part of the order for a period of four weeks. The request is opposed by the learned counsel appearing for employees. Considering the reasons recorded in the judgment, I am not inclined to grant stay to the operative part of the order. Request is accordingly **rejected**.

(SANDEEP V. MARNE, J.)