

**Tarun Chugh, CEO and Managing Director,
Bajaj Allianz Life Insurance Company Ltd.**

v.

Saroj Kumar Panda

(Civil Appeal No. 12135 of 2024)

23 September 2024

[J.K. Maheshwari and Rajesh Bindal,* JJ.]

Issue for Consideration

Respondent No.1 filed a statement of claim before the Tribunal impugning his termination vide order dated 25.07.2017 – Tribunal passed ex-parte award dated 05.02.2019, the termination of the Respondent No.1 was held to be bad – Respondent No.1 was directed to be reinstated with back-wages and other service benefits – The aforesaid ex-parte Award was challenged by all the parties impleaded by the Respondent No.1 before the Tribunal, namely, the officers in person, without joining the company-employer as a party – The writ petition filed by the writ petitioners/appellants before the High Court, impugning the ex-parte Award of the Tribunal, was dismissed vide order impugned dated 01.03.2021 – Appellant approached the Supreme Court and filed an appeal against the order dated 01/03/2024 passed by the High Court – SC while setting aside the impugned order passed by the High Court and the Award of the Tribunal allowed the appeal.

Whether proper impleadment of parties in any proceedings is sine qua non in the matter coming before the court.

Headnotes[†]

Practice and Procedure – Impleadment – Proper impleadment of parties in any proceedings is sine qua non in any matter coming before court – A corporate has a separate legal entity as compared to an individual or an officer of the company:

Held: It needs to be appreciated that proper impleadment of parties in any proceedings is sine qua non in any matter coming before the court. However, what is noticed is that it has become a casualty in the process. Due care is not taken at the time of initiation of any proceedings before any forum to ensure that proper parties

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are impleaded. It needs to be appreciated that a corporate has a separate legal entity as compared to an individual or an officer of the company. There can be privity of contract between the corporate and any other individual and that contract or communication may have been signed by any officer on its behalf as an authorized signatory. It does not mean that the officer signing the communication or the agreement or the executive head of the company becomes individually liable for any claim against the company except the cases where any specific claim is made in that regard. Any order or decree or award passed by the Court, in case proper parties are not impleaded, becomes inexecutable. [Paras 10.1 and 10.2]

List of Keywords

Ex-Parte Award; Termination; Reinstate; Impleadment of Proper Parties; Privity of Contract; Separate legal entity.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 12135 of 2024

From the Judgment and Order dated 01.03.2021 of the High Court of Orissa at Cuttack in WP(C) No. 8877 of 2020

Appearances for Parties

Amol Chitale, Mrs. Shweta Singh Parihar, Sartak Sharma, Mrs. Pragya Baghel, Advs. for the Appellant.

R. Balasubramanian, Sr. Adv., Karunakar Mahalik, B. Venkatraman, Debasish Mishra, Ms. Sanya Minhas, Advs. for the Respondent.

Judgment / Order of the Supreme Court

Order

Rajesh Bindal, J.

1. Leave granted.
2. The impugned order¹ was passed by the High Court² in Writ Petition³

¹ Dated 01.03.2021

² High Court of Orissa, Cuttack

³ W.P.(C)No.8877 of 2020

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filed by Tarun Chugh,⁴ Ruben Selvadoray⁵ and Prabir Ranjan Prusty⁶ whereby the *ex parte* Award⁷ of the Tribunal⁸ was upheld.

3. Initially the Special Leave Petition was filed by one of the writ petitioners, Tarun Chugh, however, while deleting the proforma Respondent Nos.2 and 3 from the array of the parties, as allowed *vide* order dated 30.06.2021, the name of the Petitioner in the Amended Cause Title annexed to the S.L.P. paper book is shown as 'Bajaj Allianz Life Insurance Company Ltd.' herein after referred to as 'the Company', which is different from the original Petitioner. This change was made without any order of the Court, hence, cannot be admitted.
 4. Briefly, the facts as available on record are that a statement of claim was filed by the Respondent No.1 before the Tribunal impugning his termination *vide* order dated 25.07.2017. *Vide ex-parte* Award dated 05.02.2019 passed by the Tribunal, the termination of the Respondent No.1 was held to be bad. He was directed to be reinstated with back-wages and other service benefits. The aforesaid *ex-parte* Award was challenged by all the parties impleaded by the Respondent No.1 before the Tribunal, namely, the officers in person, without joining the company - employer as a party. The writ petition filed by the writ petitioners/appellants herein before the High Court, impugning the *ex-parte* Award of the Tribunal, was dismissed *vide* order impugned.
 5. Learned counsel for the Appellant submitted that it is a case in which the matter was entrusted to the counsel for appearance before the Tribunal, but later he failed to take care of the proceedings of the case. The Officer in the Legal Department had left the management company on 26.09.2018 and the Officer in the Human Resource Department had left the management company on 24.05.2019 respectively, i.e., during the pendency of the dispute before the Tribunal. It was under these circumstances that proper representation could not be made.
- 5.1 The Respondent No.1 had failed to implead the employer with whom there may be privity of contract. Only the officers of the

⁴ CEO and Managing Director, Bajaj Allianz Life Insurance Co. Ltd.

⁵ Chief Human Resource Officer, Bajaj Allianz Life Insurance Co.Ltd.

⁶ Regional Head, Bajaj Allianz Life Insurance Co.Ltd.

⁷ Dated 05.02.2019

⁸ Central Government Industrial Tribunal, Bhubaneswar in I.D. Case No.86 of 2017

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company were impleaded. Such officers of the company had not engaged Respondent No.1 in their personal capacity. It was argued that the Respondent No.1 was initially appointed as Branch Accountant on 09.05.2006 by the Company. Thereafter, he was promoted as Senior Divisional Accountant in Grade L(IA) on 01.04.2009. He was redesignated as Business Supporting Officer (Managerial Post) w.e.f. 01.08.2014. He was transferred from Finance Department to Sales Administration w.e.f. 01.01.2015 and again from Agency Sales Administration to Agency Sales w.e.f. 15.05.2017. On account of Departmental restructuring resulting in changes in roles and responsibilities of different officers, the Respondent No.1 became surplus and redundant in the company and there being no alternative work available for his adjustment, however, his services were dispensed with, as per the terms of appointment and a communication was sent to the Respondent No.1 on 25.07.2017 by the company. A sum of ₹ 1,07,787/- was transferred in his bank account in lieu of notice for termination. The Respondent No. 1 was earning a salary of ₹35,929/- per month, as was his last drawn salary for the month of June 2017. Further, it was argued that the Respondent No.1 was working on a managerial post, by no stretch of imagination he could be treated as workman, entitling him to invoke the jurisdiction of the Tribunal by raising an industrial dispute. The order passed by the Tribunal was totally without jurisdiction. This basic issue should have been examined by the Tribunal even on the facts, which were brought on record.

- 5.2 The order of the Tribunal was challenged before the High Court placing the aforesaid facts and also explaining the lapse on the part of the counsel, who was later removed from the panel of the advocates engaged to conduct cases on behalf of the company. However, the writ petition was dismissed. The submission is that an opportunity be granted, and the matter may be remitted back to the Tribunal for re-examination on merits after impleadment of proper parties.
6. On the other hand, learned counsel for the Respondent No.1 submitted that after due service of notice, no one had appeared before the Tribunal, hence, they were proceeded against *ex parte*. The management was well within knowledge of the pendency of the

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matter before the Tribunal, hence, it cannot be allowed to take the plea that employer was not impleaded as such, as senior officers were already before the Tribunal, as such a hyper-technical submission deserves to be rejected. Once service to the Respondent No.1 before the Tribunal was complete, which is not disputed by the Appellant before this Court, there is no good reason for setting aside the Award of the Tribunal only because of the Appellant's lapse in appearance. The appeal deserves to be dismissed.

7. Heard learned counsel for the parties and perused the paper book.
8. The facts as evident from the record are that the Respondent No.1 was appointed as Branch Accountant on 09.05.2006. Thereafter, he was promoted as Senior Divisional Accountant in Grade L(IA) on 01.04.2009. He was redesignated as Business Support Officer (Managerial Post) w.e.f. 01.08.2014. Further, he was transferred from Finance Department to Sales Administration w.e.f. 01.01.2015 and again from Agency Sales Administration to Agency Sales w.e.f. 15.05.2017. It is claimed that on account of Departmental restructuring resulting in changes in duties and responsibilities of different officers, the Respondent No.1 became surplus and there being no alternative job available for his adjustment, his services were dispensed with, as per the terms of appointment.
9. The Respondent No. 1 challenged his termination before the Regional Labour Commissioner (Central), which led to conciliation proceedings. However, no settlement could be arrived at. The Respondent No. 1 was issued a Certificate dated 25.10.2017 to approach the Tribunal directly.
10. The Respondent No.1 filed claim petition⁹ before the Tribunal. Three officers of the company were impleaded and not the company, which was the employer of the Respondent No.1. Para 3 of the Award of the Tribunal mentions that in spite of notice, neither the management company nor the officers who were impleaded as party appeared. Hence, they were proceeded against *ex parte*. However, the fact remains that the management was not a party before the Tribunal. Finally, while granting the relief also it was directed that the first party management-Bajaj Allianz Life Insurance Co. Ltd. is directed to reinstate the applicant workman whereas the first party impleaded

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before the Tribunal was not Bajaj Allianz Life Insurance Co. Ltd. but Tarun Chugh, CEO and Managing Director of the company.

- 10.1 It is to observe that proper impleadment of parties in any proceedings is *sine qua non* in any matter coming before the court. However, what is noticed is that it has become a casualty in the process. Due care is not taken at the time of initiation of any proceedings before any forum to ensure that proper parties are impleaded.
- 10.2 The case in hand is not in isolation. It needs to be appreciated that a corporate has a separate legal entity as compared to an individual or an officer of the company. There can be privity of contract between the corporate and any other individual and that contract or communication may have been signed by any officer on its behalf as an authorized signatory. It does not mean that the officer signing the communication or the agreement or the executive head of the company becomes individually liable for any claim against the company except the cases where any specific claim is made in that regard. Any order or decree or award passed by the Court, in case proper parties are not impleaded, becomes inexecutable.
11. The plea taken before the High Court while challenging the aforesaid Award of the Tribunal was that the then Human Resource Manager and the Legal Manager were dealing with the matter and had engaged a counsel to represent the company before the Tribunal. However, the Legal Manager had left the management company on 26.09.2018 while the Human Resource Manager had left the management company on 24.05.2019, i.e., during the pendency of the matter before the Tribunal. The counsel¹⁰ engaged by the management company did not take proper care of matter,hence,was removed from the panel of the advocates conducting cases on behalf of the company. However, the High Court did not accept this plea and rejected the writ petition.
12. On the facts at hand and the material available on record, we find that there was a technical defect in the claim petition filed by the Respondent No.1 as the management who was his employer was

10 Name is being withheld

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not even impleaded as party before the Tribunal, still a direction was issued to the management to reinstate him. The designation and job profile of the Respondent No.1 and even the material placed on record by the Respondent No. 1 were required to be considered by the Tribunal to come to the conclusion whether he was a workman or not. It is only then jurisdiction is vested in the Tribunal to deal with the subject. The reason assigned by the Appellant explaining the non-appearance of the counsel before the Tribunal seems plausible and acceptable. As the two officers, who were dealing with the matter and engaged the then counsel, had also left the organization.

13. Considering the totality of the facts, as discussed above, in our opinion, the appeal deserves to be allowed.
14. For the reasons mentioned above, we allow the present appeal. The impugned order passed by the High Court and the Award of the Tribunal are set aside. The matter is remitted back to the Tribunal for fresh consideration on merits after proper parties are impleaded, giving due opportunity to both the parties. There shall be no order as to costs.

Result of the Case: Appeal Allowed.

[†]*Headnotes prepared by:* Himanshu Rai, Hon. Associate Editor
(Verified by: Kanu Agrawal, Adv.)