



Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE**

Present :

**The Hon'ble Justice Raja Basu Chowdhury**

**WPA 818 of 2016  
with  
CAN 5 of 2025**

**Welfare Association of Ex-Executives of Kolkata Based NJMC  
Ltd. & Ors.  
Versus  
National Jute Manufacturers Corporation & Ors.**

For the petitioners : Mr. Kollol Basu  
Mr. Suman Banerjee  
Mr. Atreya Chakraborty

For the N.J.M.C. Ltd. : Mr. Sudip Sanyal, Sr. Advocate  
Mr. Joydeep Banerjee  
Mr. Debasish Basu

Heard on : 31.10.2025 & 28.11.2025.

**Judgment on : 27<sup>th</sup> February, 2026**

**Raja Basu Chowdhury, J:**

1. The petitioner no.1 is an association of retired officer of National Jute Manufacturers Corporation Limited (hereinafter referred to as the "NJMC") and its subsidiaries. All the members of the petitioner no.1 have since been superannuated from service on or before 31<sup>st</sup> March, 2010. According to the petitioners, the pay of the employees of the NJMC insofar as officers are concerned, and the revision thereto, is determined by the Department of Public Enterprises,



Ministry of Industry, Government of India, wherein the pay scale is revised every five years and the last of such revision had been made with effect from 1<sup>st</sup> January, 2007. Since, NJMC was declared a sick company within the meaning of Sick Industrial Companies (Special Provisions) Act, 1985 and was referred to BIFR no further revision was made having regard to Clause 13 of an office memorandum dated 19<sup>th</sup> July, 1995, which provides that the Public Sector undertakings which are registered with BIFR will be allowed pay revision only when BIFR decides to revive the said unit. As a result, the officers of NJMC were forced to continue on the pay scale as lastly revised in the year of 1987. The petitioners would however, contend that some of the clerical staffs of NJMC were drawing higher salary than the officers on the strength of certain bipartite and tri-partite agreements. It is in the backdrop as aforesaid, some of the members of the petitioner no.1 had preferred two separate writ petitions, which were registered as WP No. 1505 of 1999 and WP No. 2394 of 1999, inter alia, praying for pay fixation so that the above anomaly can be resolved. On contested hearing by a common judgment and order dated 27<sup>th</sup> August, 2009, a Coordinate Bench of this Court disposed of the said writ petitions, inter alia, quashing Clause 13 of the office memorandum dated 19<sup>th</sup> July, 1995 and directing the respondents to form a team of experts, within a period of three months, with sufficient experience in dealing with matters relating to rationalization of pay structure and to consider the



grievance of the petitioners within a specific period. Though belatedly but ultimately, the authorities had accepted the above order and had formed a team of experts/ committee to recommend the pay of the eligible executives/officers of NJMC Limited. The recommendations of the expert committee were submitted on 31<sup>st</sup> March, 2010 unfortunately, the petitioners or its members were not made aware with regard to the same until the time hereinafter mentioned. According to the petitioners the expert committee had recommended that the pay of the eligible executives/officers of NJMC may be revised in terms of the revision of scales of pay promulgated by DPE vide OM No.2(50)/85-EPE(W/C) dated 19<sup>th</sup> July 1995 and OM No.2(49)/98-DPE(WC) dated 25<sup>th</sup> June, 1999, respectively, and the officers of NJMC may be disbursed the arrears of pay and allowances flowing from the revision of scale of pay in a manner and mode not inferior to the package adopted for compensation of the clerical staff of NJMC arising out of the memorandum of settlement dated 24<sup>th</sup> September, 1997. According to the petitioners though, the Union Cabinet had accepted the proposal of the expert committee and directed grant of composite package of revision of pay scales with effect from 1<sup>st</sup> April 2010, VRS on 1997 pay scales and the arrears at the rate of 40% only was offered for full and final settlement of the dues of the officers in the light of the judgement of the Hon'ble High Court at



- Calcutta. Though, the petitioners had approached by filing contempt, the contempt did not succeed, and was dismissed.
2. In the interregnum, the VRS of the NJMC was circulated and notified on 17<sup>th</sup> January, 2011. It was further notified that the mode of calculation of VRS would be as per the Gujarat Pattern as envisaged in the office memorandum dated 5<sup>th</sup> May, 2001 and 6<sup>th</sup> November, 2001 and all benefits as per the VRS will be given on 1997 pay scales as approved by the Cabinet under a composite package. Insofar as *ex gratia* amount and other eligible payments are concerned, they shall be paid as per DPE guideline and per the composite package approved by the Cabinet.
  3. The petitioners would contend that the respondent authority could not have unilaterally decided that payment of 40 per cent of arrears of revised scale of pay to the retired executives/officers would be in full and final settlement of their dues instead of giving 100 per cent. The petitioners having no other option had accepted the Voluntary Retirement Scheme. It is not in dispute that being aggrieved with the dismissal of the contempt application being CC 81 of 2010, an appeal was filed. Such appeal was disposed of by a judgment and order dated 12<sup>th</sup> August, 2013, *inter alia*, by observing that in the judgment there was no peremptory direction to revise the pay scales and make payment of the arrears or revision of pay at 100 per cent. The appeal Court also observed that the report of the expert committee cannot be said to be final, conclusive and binding. The



order passed by this Court cannot be interpreted in a manner as suggested by the appellants. Since, the revision of pay has already been made, there had been substantial compliance of the order.

4. Mr. Bose, learned advocate representing the petitioners, has drawn the attention of this Court to the note for the Cabinet dated 22<sup>nd</sup> October, 2010 to highlight that the Cabinet had granted approval to extend budgetary support for providing VRS, liquidating statutory arrears and gratuity. The learned advocate has drawn the attention of this Court to the File No. 17/2/2000 of the Government of India, Ministry of Textiles on the issue that the Ministry had decided to implement the order of the Hon'ble High Court to settle the issue, to pave the way for revival of the company. It may be noted that the recommendations of the expert committee were on the following terms:

**“5.4** *The Recommendation of the Expert committee are as follows:*

*(i) that the pay of the eligible executives/officers of the NJMC Ltd. may be revised in terms of the revision of scales of pay promulgated by the DPE vide OM No.2(50)/86-DPE(WC) dated 19.7.95 {i.e. 1992 pay-scales} and OM No. 2 (49)/98-DPE(WC) dated 25.6.1999 {i.e. 1997 pay-scales} respectively.*

*(ii) that the eligible executives/officers of the NJMC Ltd. may be disbursed arrears of pay and allowances flowing from the revision of scales of pay in a manner and mode not inferior to the package adopted the compensation of the clerical staff*



of NJMC arising from the Memorandum of settlement of 24.9.1997.

**5.5** *A copy of Memorandum of Settlement entered into between NJMC management & clerical staff dated 24.9.97 is placed at Annexure – IX [pp. 31-35]”*

5. However, the recommendations were implemented by the Government in the following manner as would appear from Clause 5.6 thereto.

**“5.6** *The recommendation of the Expert Committee can be implemented following the same yardstick/package adopted in the case of clerical staff. This will require-*

*(i) New salaries w.e.f. 1.4.2010 be paid on the basis of 1997 pay-scales; and*

*(ii) A settlement with officers to accept 40% of the arrear on pay and allowances (for the duration 1.1.92 (or 1.1.97 as the case maybe) to 31.3.2010 i.e. upto date of implementation) – for expeditious settlement of their dues.”*

6. The members of the petitioners appear to be aggrieved by the fact that the recommendations of the expert committee had been bypassed and an erroneous observation has been made by providing 40 per cent of arrears of pay revision from 1992 and 1997 to the officers of NJMC, in full and final settlement which does not secure compliance of the judgment delivered by High Court. The petitioners claim that the aforesaid settlement was inferior to the settlement arrived at between the clerical staff and the officers of the NJMC and therefore, contrary to the letter and spirit of the order passed by the Hon'ble High Court on 27<sup>th</sup> August, 2009. It is



also the contention of the petitioners that the decision to disburse 40 per cent of the arrears is an arbitrary exercise of power. In as much as the members of the petitioners were enjoying the 1987 pay scale since 1992, and the 1997 pay revisions were not implemented in their case. It is the expert committee which ultimately, recommended implementation of the 1992 and 1997 pay scales, the same were implemented in the year 2011, with effect from 1<sup>st</sup> April 2010 by which time the members of the petitioner no.1 had all retired. The petitioners claim that had the fact that the recommendations shall be implemented been brought to the notice of the members of the petitioners, they would not have accepted the settlement of 40 per cent of the arrears without protest, as the benefit of the recommendations was extended to the existing employees, who later entered into an agreement with the NJMC on 9<sup>th</sup> October, 2011. In support thereof, reliance has been placed on the letter dated 30<sup>th</sup> December, 2011.

7. The respondents, on the other hand, have contended that the members of the petitioners having accepted the composite package cannot be permitted to challenge the same. It has been highlighted that though, the petitioners, being aggrieved by the steps taken by the respondents to make payment of only 40 per cent of the arrears, had filed a contempt application and the dismissal thereof, was also challenged in appeal, the Hon'ble appeal Court had refused to interfere as would appear from the order dated 12<sup>th</sup> August, 2013.



In the light of the above and since, the lis is between NJMC and its employees and since, the Government was merely a facilitator no case for interference is made out. In any event it is submitted that the Government at this stage cannot be saddled with additional burden as the matter is done and dusted, on the members of the petitioners having accepted the offer of voluntary retirement. The writ petition deserves to be dismissed.

8. Heard the learned advocates appearing for the respective parties and considered the materials on record. The petitioners and their members claim to have been in the employment of NJMC, in their capacity as executives and officers. Incidentally, so far as the officers of NJMC are concerned, the pay revision of such officers were ordinarily, determined by the department of Public Enterprises, Ministry of industries, Government of India, where the associations or their representatives are not a party though in other public enterprises, following IDA pattern, the pay scale is revised every five years. In the instant case since, NJMC was declared sick, within the meaning Sick Industrial Companies (Special Provisions) Act 1985, and in terms of clause 13 of the office memorandum dated 19<sup>th</sup> July, 1995, no revision of pay was allowed, as a result, the officers of NJMC were forced to continue in the scale of pay as lastly revised in year 1987. The officers later found that the clerical staff of the NJMC were in fact drawing higher salary than the officers with the aid of certain bipartite and tripartite agreements which permitted



the salaries of the clerical staff to be enhanced. It is in the circumstances as aforesaid two writ petitions were filed, praying for fixation of the pay scale and payment of arrears to the members of the petitioners. Records reveal that a Coordinate Bench of this Court, noting the aforesaid anomaly by an order dated 27<sup>th</sup> August, 2009 by quashing clause 13 of the office memorandum dated 19<sup>th</sup> July, 1975, directed the respondent authorities to form a team of experts with sufficient experience in dealing with matters related to rationalization of pay structure and to consider the grievance of the petitioners.

9. Consequent upon the same, the expert committee ultimately made a recommendation on 31<sup>st</sup> March, 2010, whereby it was recommended that the pay scale of the officers of NJMC may be revised in terms of pay promulgated by the DPE vide O.M. No 2(50)/86-DPE(WC) dated 19<sup>th</sup> July, 1995, and the O.M. No. 2(49) dated 25<sup>th</sup> June/98-DPE dated 25<sup>th</sup> June, 1999, respectively, and that the executive/officers of NJMC be disbursed arrears of pay in a manner and mode not inferior to the package adopted for compensation of the clerical staff of NJMC arising out of the Memorandum of settlement dated 24<sup>th</sup> September, 1997. According to the respondents, since there was shortfall in settlement of arrears, VRS was offered to the officers as per recommendation of the expert committee, and it was suggested as follows:



*“(1) that the officers may be allowed current salary with 97 pay scale from 1.4.2010 (total monthly impact for current salary would be around Rs.1.13 Cr. In lieu of .38 Cr. at present for 205 officers.*

*(2) that the eligible executive/offices of NJMC may be disbursed arrears of pay & allowances flowing from the revision of pay scales in a manner and mode not inferior to package adopted for compensation of clerical staff of NJMC arising from the MoS dated 24-09-1997. A separate cabinet note can be moved, to provide funds for payment of the arrears, in compliance of this recommendation, along with VRS (with 1997 IDA pay scales) to all the officers.”*

10. It is not in dispute that the pay scale of the officers of the NJMC stood revised. At least, the recommendations relied on by the petitioners are in the manner provided in paragraph 5.6, as would corroborate from File No. 17/2/2000 of the Jute Export, Ministry of Textiles, which has been signed by the Joint Secretary to the Government of India dated 29<sup>th</sup> October, 2020. It is clear in terms of Clause 5.5(i) and 5.6(i), new salaries had been implemented by following the same yardstick/package adopted in the case of clerical staff. However, at the same time, a settlement was offered to the officers to accept 40 per cent of arrear pay and allowances (for the duration 01.01.1992 or 01.01.1997, as the case may be) till 31<sup>st</sup> March, 2016 i.e. upto the date of implementation, for expeditious settlement of their dues. Arrears of pay of the retired employees have been computed by providing 40 per cent arrears for 563 employees including arrears of retiral benefits. It is not in dispute



that the members of the petitioners have all accepted the Voluntary Retirement. Having thus, accepted the voluntary retirement and the settlement pay package to seek expeditious settlement of their claim on the revised 1997 pay scales in my view, the members of the petitioners cannot later turn around and be aggrieved in the respondents not providing the entire revised pay which fell in arrears to the petitioners. The fact that the challenge towards non implementation of the recommendation has already been decided against the members of the petitioners/officers by the Division Bench of this Court in connection with the above contempt proceedings by noting that the report of the Expert Committee cannot be said to be final and conclusive and binding and that it was always open to the Cabinet and Union of India to take appropriate decision considering the diverse aspects including the health and future sustainability of NJMC which cannot be lost sight of. The Cabinet has already taken the decision which had been implemented by the Government of India, agreement had/has also been entered into between the representatives and Union of India on the basis of which the decision had been taken and the scheme has been implemented duly considering the report submitted by the Expert Committee. Simply because a noting was made in the cabinet note under para 5.4 being *“(ii). that the eligible executive/offices of NJMC may be disbursed arrears of pay & allowances flowing from the revision of pay scales in a manner and*



*mode not inferior to package adopted for compensation of clerical staff of NJMC arising from the Memorandum of settlement dated 24-09-1997.”* it cannot, in my view, justify filing of this writ petition since in the very next part in paragraph 5.6 the cabinet note provided for as follows:-

“5.6 The recommendation of the expert committee can be implemented following the same yardstick/package adopted in the case of clerical staff. This will require-

(i) New salaries w.e.f. 1.4.2010 be paid on the basis of 1997 pay-scales; and

(ii) A settlement with officers to accept 40% of the area on pay and allowances (for the duration 1.1.92 (or 1.1.97, as the case may be) to 31.3.20 i.e. upto date of implementation) – for expeditious settlement of their dues.”

11. It is thus, too late in the day for the petitioners after having accepted the VRS and having realised their arrear pay to contend that they were fundamentally suffering from a lack of information as regards the reasoning which prompted the authorities to grant approval to a mode of settlement of arrears, as stipulated in the said agreement. The purported protest letter dated 30<sup>th</sup> December, 2011 relied on by the petitioners in the reply to the supplementary affidavit of respondent nos. 1, 2 and 3 has been issued obviously as and by way of an afterthought, after having realised the entire amount under the VRS. Although, the learned advocate for the



petitioners has relied on the judgment delivered in the case of ***Union of India v. Tarsem Singh***, reported in **(2019) 9 SCC 304**, the said judgment does not assist the petitioners. The aforesaid judgment has been delivered in a matter relating to land acquisition and has nothing to do with a case of this nature where the petitioners have already accepted the package under voluntary retirement, which was obviously done with the object of expeditiously settling its dues. Similarly, the judgment relied on in the case of ***Manoj Kumar v. Union of India & Ors.***, reported in **(2024) 3 SCC 563**, also does not assist the petitioners. The aforesaid case deals with the appointment as a primary teacher in a school. It is in relation to such proceedings and the manner in which marks had been denied on the ground that the petitioner therein did not possess post graduate degree in relevant subject, was considered to be arbitrary in the facts of such case. The said judgment also does not assist the petitioners. In the said case the petitioner was denied the appointment by an executive order which was ultimately set aside as being illegal and arbitrary. Notwithstanding the above, since, the school for which the advertisement was issued having been closed by the time the executive order was set aside, the Hon'ble Supreme Court had while observing that reasonable equivalent for restitution of the wrongful action should be formulated, directed payment of compensation. Such is not the case here. The petitioners to seek expeditious



settlement of their claim had accepted the offer of VRS. The petitioners are thus estopped from contending otherwise.

12. Accordingly, the writ petition fails and is dismissed.
13. There shall be no order as to costs.
14. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

**(Raja Basu Chowdhury, J.)**