

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
I.A. No. 4355 of 2022

In
Company Appeal (AT) (Insolvency) No. 752 of 2021

IN THE MATTER OF:

**Jet Aircraft Maintenance Engineers
Welfare Association**

...Appellant

Versus

**Ashish Chhawchharia
Resolution Professional of Jet Airways(India)
Ltd. & Ors.**

...Respondents

Present:

**For Appellant : Mrs. Pooja Mahajan, Ms. Mahima Singh, Ms. Arveena
Sharma and Mr. Mehak Nayak, Advocates for SRA.**

**Mr. Vikas Mehta, Mr. Mayan Prasad, Ms. Anshula
Grover and Ms. Nitika Grover, Advocates of JAMEWA**

For Respondent : Mr. Raghav Chadha, Advocate for RP

**Mr. Ritin Raj, Sr. Advocate with Ms. Pallavi Pratup,
Petrushka, Mr. Mridul Yadav, Mr. Tahira Katpalia and
Mr. Akshay Singh, Advocates for Impleader.**

O R D E R

02.12.2022 This is an Application filed by consortium of Murari Lal
Jalan and Mr. Florian Frisch, Successful Resolution Applicant seeking
clarification of the judgment delivered by this Tribunal dated 21.10.2022 in
Company Appeal (AT) (Insolvency) No. 752 of 2021 and other connected
Application. In the Application following clarifications have been sought:

...

*“b. Clarify that the Successful RA/Respondent No. 3
is directed to make payment of unpaid provident fund*

and gratuity to the workmen and employees of the Corporate Debtor till the insolvency commencement date as per Clause 6.4.2 of the Resolution Plan.

c. Clarify that any additional amount (over and above INR 52 Crores) payable by the Successful RA/Respondent No. 3 to workmen/employees shall be first paid out of the positive bank balance of the Corporate Debtor as on the Effective Date and the remaining amounts shall be paid out of amounts reserved for other creditors of the Corporate Debtor on a pro rata basis, subject to a maximum of INR 475 Crores.

d. Clarify that the total liability of the Successful RA/Respondent No. 3 for making payments to creditors under the Resolution Plan is capped at INR 475 Crores.”

..

Coming to the prayers made in the Application, the Judgment of this Tribunal clearly contemplated the payment of unpaid Provident Fund and Gratuity to the employees as an amount to be borne by the Successful RA which was required to be paid under law, non-compliance of which would have rendered violation of 32 (2)(e) of the Code.

Learned Counsel for the Applicant has referred to clause 6.4.2(e) of the Plan which was a contemplation in the Plan to the effect that if the liquidation value of workmen/employees is higher than Rs. 52.4 Crores, the same shall be paid out of the amount reserved for other creditors of the Corporate Debtor on pro-rata basis subject to maximum of Rs. 475 Crores. The said contemplation in clause 6.4.2(e) was with regard to the liquidation value only and the direction to pay unpaid amount of PF and Gratuity to the workmen/employee, was not

covered by the said Plan and has to be borne by the Successful RA as per the judgment.

With these clarifications, the Application is disposed of.

(Justice Ashok Bhushan)
Chairperson

(Mr. Barun Mitra)
Member(Technical)

akc/Nn