



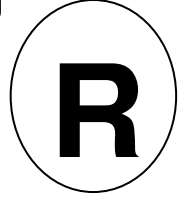
IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

REGULAR FIRST APPEAL NO. 674 OF 2025 (MON)



BETWEEN:

1. M/S WIPRO ENTERPRISES PRIVATE LIMITED
A COMPANY REGISTERED UNDER
THE COMPANIES ACT, 1956.
HAVING ITS REGISTERED OFFICE
AT 'C' BLOCK, CCLG DIVISION
DODDAKANNELI, SARJAPUR ROAD
BENGALURU-560 035.

REPRESENTED BY ITS
AUTHORISED REPRESENTATIVE
AND SENIOR MANAGER-LEGAL
MS. DHIVYA MENON

...APPELLANT

(BY SRI. ANIRUDH .R.S, ADVOCATE FOR
SMT. SUSHMA NAGRAJ, ADVOCATE)



AND:

1. MR. RATNESH PANDEY
SON OF SHRI R.N. PANDEY
AGED ABOUT 51 YEARS
RESIDING AT TULIP102
RPS GREEN VALLEY SEC 41
FARIDABAD-121 010.

...RESPONDENT

(BY SRI. SHYAM HARINDRA, ADVOCATE FOR
SRI. RAGHURAM CADAMBI, ADVOCATE)



THIS RFA IS FILED UNDER SEC.96 OF CPC., AGAINST THE JUDGEMENT AND DECREE DATED 23.07.2024 PASSED IN OS NO. 9492/2019 ON THE FILE OF THE XX ADDITIONAL CITY CIVIL AND SESSION JUDGE, BENGALURU, PARTLY DECREERING THE SUIT FOR RECOVERY OF MONEY.

THIS APPEAL, COMING ON FOR DICTATING JUDGMENT, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL JUDGMENT

Captioned appeal is by the defendant assailing the money decree passed by the Court below in O.S.No.9492/2019.

2. For the sake of convenience the parties are referred to as per their rank before the trial Court.

3. The facts leading to the case are as under:

The plaintiff was initially appointed as a Territory Manager in the defendant-company and, during the course of his service spanning nearly twelve years, was conferred with multiple promotions in recognition of his performance. Having rendered long and unblemished



service, the plaintiff decided to pursue other professional avenues and accordingly tendered his resignation on 06.08.2017. The defendant-company, by its letter dated 18.09.2017, accepted the resignation of the plaintiff and, in recognition of his valuable contribution to the organisation, offered an ex-gratia lump sum amount of Rs.6,32,000/-. The said amount was stipulated to be payable after a period of eighteen months from the date of cessation of employment, subject to the condition that the plaintiff, from the date of cessation, would not join competing companies, namely Philips India Limited or Bajaj Electricals Ltd.

4. The plaintiff's grievance is that even after the lapse of eighteen months, and despite repeated correspondence through emails, the defendant-company, though acknowledges the subsistence and validity of the contract as embodied in the letter dated 18.09.2017, failed to release the ex-gratia amount as promised. Aggrieved by the denial of the said benefit, the plaintiff



instituted the suit seeking recovery of Rs.6,32,000/- together with interest at the rate of 18% per annum.

5. Upon receipt of summons, the defendant entered appearance and filed its written statement, stoutly denying the averments made in the plaint. However, the defendant admitted that the plaintiff had enquired, vide email dated 30.01.2018, regarding the payment of ex-gratia, to which the defendant clarified that the payment would be effected only after completion of eighteen months from the date of cessation and subject to acceptance of the terms and conditions contained in the cessation letter dated 18.09.2017.

6. The defendant, however, disputed the claim of the plaintiff on the ground that the plaintiff had not accepted the terms and conditions of the cessation letter till date and, therefore, was not entitled to payment of the ex-gratia lump sum amount of Rs.6,32,000/-.



7. Based on the rival pleadings, the Trial Court framed issues for consideration. Both parties led oral and documentary evidence in support of their respective claims. Upon appreciation of the evidence on record, the Trial Court answered Issue No.1 partly in the affirmative and held that the plaintiff had proved his entitlement to receive a sum of Rs.6,32,000/- as stipulated in the letter dated 18.09.2017.

8. Learned counsel appearing for the defendant, reiterating the grounds urged in the appeal memorandum, vehemently contended that the offer made by the defendant under the letter dated 18.09.2017, for want of acceptance, stood revoked under Section 6(2) of the Indian Contract Act, 1872 (for short "the Act"). He further contended that any alleged acceptance beyond eighteen months from the date of cessation cannot be construed as acceptance within a reasonable time. It was urged that the proposal, therefore, stood revoked and that the Trial Court failed to properly appreciate the obligation cast upon the



plaintiff under the letter dated 18.09.2017 before claiming the ex-gratia amount. Reliance was also placed on Section 7 of the Act, contending that the prescribed mode of acceptance set out in the offer letter was not complied with. On these grounds, it was submitted that the decree is perverse and warrants interference by this Court.

9. Per contra, learned counsel appearing for the plaintiff placed reliance on Sections 7(2) and 8 of the Act. Referring to the pleadings and evidence, he submitted that the defendant, either in the written statement or during the course of trial, never alleged that the plaintiff had breached conditions 2, 3 or 4 of the letter dated 18.09.2017. It was contended that even assuming that there was no express communication of acceptance, the opening paragraph of the letter read with Clause 4 thereof clearly demonstrates that the plaintiff had fulfilled and honoured the conditions imposed by the defendant-company. He therefore urged that the appeal is devoid of merit and liable to be dismissed.



10. This Court, having heard the learned counsel appearing for the parties and having carefully perused the record, has given its anxious consideration to the letter dated 18.09.2017, which is marked as Ex.P-7.

11. The following points would arise for consideration:

(i) Whether the offer of ex-gratia payment made by the defendant under the letter dated 18.09.2017 stood revoked for want of acceptance in terms of Section 6(2) of the Act?

(ii) Whether the plaintiff is disentitled from claiming the ex-gratia lump sum amount of Rs.6,32,000/- solely on the ground of non-communication of acceptance of the offer made by the defendant-company, when the evidence on record demonstrates that the plaintiff, by his conduct, has duly complied with the conditions stipulated in Clauses 2 to 4 of the offer letter and has not committed any breach during the non-solicitation period of eighteen months?



(iii) Whether the plaintiff, by conduct and performance of the conditions stipulated in the letter dated 18.09.2017, can be held to have accepted the offer within the meaning of Sections 7(2) and 8 of the Act?

(iv) Whether the Trial Court was justified in holding that the plaintiff is entitled to recover the ex-gratia amount of Rs.6,32,000/- from the defendant-company?

(v) Whether the judgment and decree passed by the Trial Court call for interference in the present appeal?

(vi) What order?"

Findings on points (i) to (v):

12. Before this Court adverts to the core issue regarding acceptance or non-acceptance of the proposal by the plaintiff, deems it fit to extract the entire letter dated 18.9.2017, which reads as under:

"18th September 2017

*Mr. Ratnesh Pandey,
1/157, Ajay Rathan',*



Ring Road, Chopra Colony,
Ambikapur

Dear Mr. Ratnesh,

This is in respect of the discussions we had with regard to cessation of your services with the Company. As agreed, your last working day with the Company is 19th August 2017 ('Date of Cessation'). As a special case and keeping in view your employment record, Company offers to pay to you ex-gratia, a lump-sum amount of Rs. 6.32.000/- (Six Lakh Thirty Two Thousand Only) ('Payout') after Eighteen months of Date of Cessation, subject to the following conditions:

- 1. Payout shall be subject to TDS and you shall be responsible to bear tax as per prevailing Income Tax law.*
- 2. For a period of eighteen months post Date of Cessation ('Non Solicitation period'), you shall not solicit or in any manner influence any employee of the Company to sever its employment with the Company.*
- 3. You agree that in case during the Non Solicitation period, any employee of the Company contacts you on his own to either work for/with you or any of your future employers, you shall promptly share the details with the Company.*
- 4. You agree that 18 months from date of Cessation or actual day of payment whichever is later, you will not join Competition Company*



a. Philips India Ltd

b. Bajaj Electricals Ltd.

5. *In case the breach of conditions 2, 3 & 4 are noticed by the Company post disbursement of the Payout, you agree to return to the Company the amount of Payout forthwith along with interest @15% pa from the date of disbursement.*

6. *The Payout is not routine and shall not create any precedent.*

7. *Disputes in respect of this agreement shall be subject to exclusive jurisdiction of courts at Bangalore.*

Pease sign on a copy of this agreement in token of your acceptance of the terms above and return to us for records."

(Emphasis Supplied)

13. A plain reading of the opening paragraph of the letter dated 18.09.2017, extracted supra, unequivocally establishes that the plaintiff's resignation was accepted by the defendant-company and that his last working day was fixed as 19.08.2017, which is expressly defined as the "Date of Cessation". The said paragraph further makes it abundantly clear that, as a special case and in recognition



of the plaintiff's employment record, the defendant-company offered to pay an ex-gratia lump sum amount of Rs.6,32,000/- payable after a period of eighteen months from the Date of Cessation, subject to compliance with the conditions enumerated in the said letter.

14. Clauses 2, 3 and 4 of the letter extracted supra assume critical significance in determining the plaintiff's entitlement to the ex-gratia amount. These clauses impose post-cessation obligations upon the plaintiff during the non-solicitation period of eighteen months. Clause 5, in turn, provides the consequence of breach of clauses 2, 3 and 4, namely, refund of the payout along with interest, but only in the event such breach is noticed by the company. Therefore, the contractual scheme underlying the letter clearly indicates that the right of the plaintiff to receive the ex-gratia amount is contingent not upon formal communication of acceptance, but upon faithful adherence to the conditions stipulated in clauses 2 to 4.



15. The defendant-company has sought to place undue emphasis on the concluding line of the letter requiring the plaintiff to sign and return a copy "in token of acceptance". The expression "return to us for records" has to be understood in its proper context and cannot be elevated to a mandatory or substantive condition precedent for crystallisation of rights under the offer. On the contrary, the operative part of the offer was put into motion with effect from 19.08.2017, i.e., the Date of Cessation, which was unilaterally fixed by the defendant upon acceptance of the resignation. Significantly, it is not the case of the defendant that the plaintiff has violated any of the conditions enumerated in clauses 2 to 4 of the letter at any point during the stipulated non-solicitation period.

16. During the course of trial, the plaintiff, while responding to suggestions in cross-examination, has consistently maintained that he was appointed by the defendant-company, initially posted at Hyderabad,



thereafter promoted as Area Manager and transferred to Delhi. These facts, which remain undisputed, coupled with the absence of any allegation of breach of the post-cessation obligations, lead to an inevitable inference that the plaintiff scrupulously adhered to the conditions imposed upon him. Even in the absence of an express written acceptance, acceptance can clearly be inferred from the conduct of the plaintiff, who neither solicited employees of the defendant-company nor joined the competing companies, namely Philips India Limited or Bajaj Electricals Ltd., during the non-solicitation period.

17. The stand adopted by the defendant-company throughout the proceedings, particularly its failure to plead or prove breach of clauses 2 to 4, fortifies the conclusion that the plaintiff had duly performed the obligations cast upon him under the letter dated 18.09.2017. Consequently, the offer of ex-gratia payment stood concluded on the date the plaintiff's resignation was accepted and the cessation took effect. The only



obligations imposed upon the plaintiff were in the nature of post-cessation restraints, compliance whereof alone was determinative of his entitlement to the ex-gratia amount. Therefore, mere non-communication of acceptance cannot, by itself, invalidate the offer or disentitle the plaintiff from claiming the agreed payout.

18. This Court also deems it appropriate to extract Section 7 of the Act, which reads as under:

"Section 7 – Acceptance must be absolute.—

In order to convert a proposal into a promise, the acceptance must—

(1) be absolute and unqualified;

(2) be expressed in some usual and reasonable manner, unless the proposal prescribes the manner in which it is to be accepted.

If the proposal prescribes a manner in which it is to be accepted, and the acceptance is not made in such manner, the proposer may, within a reasonable time after the acceptance is communicated to him, insist that his proposal shall be accepted in the prescribed manner, and



not otherwise; but if he fails to do so, he accepts the acceptance."

19. This Court deems it appropriate to extract Section 8 of the Act, which reads as under:

"Section 8 – *Acceptance by performing conditions, or receiving consideration.—*

Performance of the conditions of a proposal, or the acceptance of any consideration for a reciprocal promise which may be offered with a proposal, is an acceptance of the proposal."

20. A conjoint reading of Sections 7 and 8 of the Act, makes it manifest that while Section 7 prescribes the general rule that acceptance must be absolute and ordinarily communicated in a usual and reasonable manner, Section 8 carves out a clear exception where the proposal itself contemplates acceptance by performance of the conditions stipulated therein. In such cases, performance of the act constitutes valid acceptance and no separate communication of acceptance is required. Tested on this statutory framework, the letter dated 18.09.2017 issued by the defendant-company unmistakably envisages



acceptance by conduct. The conditions enumerated in clauses 2 to 4 are post-cessation obligations to be performed over a period of eighteen months and not promises requiring contemporaneous communication. The defendant, having neither prescribed communication of acceptance as a condition precedent nor insisted upon the prescribed manner of acceptance within a reasonable time, and further having failed to allege or establish any breach of the said conditions, must be held to have accepted the acceptance by performance. Consequently, the plaintiff's adherence to the conditions stipulated in the letter dated 18.09.2017 constitutes valid acceptance under Section 8, and the defence founded on non-communication of acceptance is rendered unsustainable.

21. Section 8 of the Act, draws a clear distinction between an offer which requires acceptance by way of a promise and an offer which invites acceptance by performance of an act. In the former category, communication of acceptance to the proposer is essential.



However, in the latter category, where acceptance consists of the performance of the conditions of the proposal, no further communication of acceptance is necessary beyond the performance of the act itself.

22. The legal position governing acceptance by conduct under Section 8 of the Act, stands well crystallised through a long line of authoritative pronouncements. Section 8 of the Act postulates that where an offer is framed in such a manner that acceptance is to be manifested by performance of the conditions of the proposal, the very act of such performance constitutes acceptance, dispensing with the necessity of any further or express communication of assent. In ***Brogden .vs. Metropolitan Railway Co.***¹ it was held that a concluded contract may arise from the conduct of the parties, even in the absence of a formally executed or expressly communicated acceptance, provided the conduct unequivocally evinces acceptance of the terms of the offer.

¹ (1877) 2 AC 666



This principle has been consistently adopted in Indian jurisprudence. The Hon'ble Supreme Court in catena of judgments has recognised that acceptance of an offer need not always be express and may be inferred from acts and conduct which demonstrate *consensus ad idem*. Likewise the Hon'ble Apex Court held that when the offer itself contemplates acceptance by performance, the contract is complete upon such performance, without any requirement of communication of acceptance. In ***Trimex International FZE Ltd. .vs. Vedanta Aluminium Ltd.***² the Honble Apex Court reiterated that a binding contractual relationship can arise from correspondence and conduct, even in the absence of a signed agreement, if the parties act upon the essential terms thereof.

23. The Hon'ble Supreme Court in ***Trimex International FZE Ltd. .vs. Vedanta Aluminium Ltd.***³ has authoritatively held that a concluded and binding contract can come into existence on the basis of

² (2010) 3 SCC 1

³ (2010) 3 SCC 1



correspondence and conduct of the parties, notwithstanding the absence of a formally executed agreement. The Hon'ble Apex Court, while approving the settled position of English law, noticed that the said principle has been consistently followed by English Courts, *inter alia*, in ***Mamidoil-Jetoil Greek Petroleum Co. S.A. .vs. Okta Crude Oil Refinery AD***⁴ and ***Wilson Smithett & Cape (Sugar) Ltd. .vs. Bangladesh Sugar and Food Industries Corporation***⁵ The Hon'ble Supreme Court further relied upon the celebrated judgment of ***Lord Du Parcq in Shankarlal Narayandas Mundade .vs. The New Mofussil Co. Ltd. & Ors.***⁶, wherein it was held that unless a clear inference can be drawn from the facts that the parties intended to be bound only upon execution of a formal agreement, the enforceability of the contract would not be affected by the absence of such formality. The Honble Apex Court unequivocally held that Indian law has not evolved any principle contrary to this settled position

⁴ (2001) 2 Lloyd's Law Reports 76 at p. 89

⁵ (1986) 1 Lloyd's Law Reports 378 at p. 386

⁶ AIR 1946 PC 97



and that the decisive test is the intention of the parties as gathered from their correspondence, conduct, and surrounding circumstances.

24. Tested on the anvil of these settled principles, the letter dated 18.09.2017 issued by the defendant-company leaves no manner of doubt that the offer of ex-gratia payment was structured as one inviting acceptance by conduct. The opening paragraph of the letter records the acceptance of the plaintiff's resignation, fixes the Date of Cessation as 19.08.2017, and unequivocally extends an offer of ex-gratia payment payable after eighteen months, subject to compliance with the conditions stipulated therein. Clauses 2, 3 and 4 of the letter do not require any immediate or contemporaneous act of acceptance; instead, they impose continuing post-cessation obligations upon the plaintiff over a defined non-solicitation period of eighteen months. The scheme of the letter clearly demonstrates that the defendant intended acceptance to be evidenced by adherence to these conditions over time.



This intent is further fortified by Clause 5, which contemplates consequences only in the event of breach of clauses 2 to 4, and not in the event of non-communication of acceptance.

25. The concluding request in the letter calling upon the plaintiff to sign and return a copy “for records” cannot, in the face of the operative clauses, be construed as a condition precedent to the formation of a binding obligation. Such a request is procedural in nature and does not override the substantive mechanism of acceptance envisaged by the defendant itself. The defendant-company, having neither pleaded nor proved any breach of the conditions enumerated in clauses 2 to 4, cannot now be permitted to defeat the plaintiff’s claim by placing hyper-technical reliance on the absence of a formal communication of acceptance. In the factual matrix of the present case, the plaintiff’s undisputed compliance with the non-solicitation and non-competition obligations during the stipulated period constitutes valid acceptance under



Section 8 of the Act. Consequently, the offer stood accepted by performance, and the contractual obligation to disburse the ex-gratia amount crystallised upon completion of the non-solicitation period, rendering the defence of non-communication of acceptance wholly untenable.

26. In the present case, the conditions stipulated in the letter dated 18.09.2017 unmistakably fall within the latter category. The plaintiff was required, during the non-solicitation period of eighteen months post cessation, (i) not to solicit or influence employees of the defendant-company, (ii) to disclose details if any employee approached him on their own, and (iii) not to join the specified competing companies. These conditions are in the nature of acts to be performed over a period of time and not promises requiring contemporaneous communication of acceptance.



27. A conjoint reading of clauses 2 to 4 of the letter evidences that acceptance of the offer was intended to be manifested through conduct. The plaintiff, by adhering to the stipulated conditions throughout the non-solicitation period, has discharged his contractual obligations in both letter and spirit. In such circumstances, insistence on formal communication of acceptance is wholly misconceived. The present case squarely falls within the category contemplated under Section 8 of the Act, wherein performance of the conditions constitutes valid acceptance. Consequently, non-communication of acceptance has no bearing on the plaintiff's entitlement to the ex-gratia amount.

For the forgoing reasons, points (i), (ii) and (v) are answered in the **negative** and points (iii) and (iv) are answered in the **affirmative**.

28. The defendant-company, despite having accepted the plaintiff's resignation, acted upon the



cessation letter dated 18.09.2017, and having failed to plead or prove any breach of the conditions stipulated therein, has sought to defeat a legitimate contractual claim by raising hyper-technical objections relating to non-communication of acceptance. Such a defence not only runs contrary to Sections 7 and 8 of the Act, and the authoritative pronouncements of the Hon'ble Supreme Court, but also reflects a vexatious and unjustified resistance to an admitted liability. The Defendant-company, being a corporate entity, was expected to act fairly and responsibly and not compel the plaintiff to undergo prolonged litigation to secure an amount contractually promised. This Court is therefore of the view that the stand taken by Defendant-company in written statement constitutes an abuse of the process of law and warrants imposition of exemplary costs.



Finding on point No.(vi)

29. In view of the finding recorded on points (i) to (v), this Court proceeds to pass the following:

ORDER

The appeal is ***dismissed*** with costs quantified at Rs.50,000/-, payable by the defendant-company to the plaintiff within a period of four weeks from the date of receipt of a copy of this judgment.

**Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE**

ALB
List No.: 1 Sl No.: 6