

(2019) 09 CAL CK 0041

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 3303 (W) Of 2015, Civil Application (CAN) No. 8668 Of 2015

Hindustan Cables Workers' Union & Ors

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 13-09-2019

Acts Referred:

Industrial Disputes Act, 1947 — Section 2, 9A, 19(2), 33C(2)
Industrial Disputes (Central) Rules, 1957 — Rule 34
Constitution Of India, 1950 — Article 12, 226

Citation : (2019) 09 CAL CK 0041

Hon'ble Judges : Protik Prakash Banerjee, J

Bench : Single Bench

Advocate : L.K. Gupta, Arjun Ray Mukherjee, Apurba Ghosh, Arunavo Ghosh, Debaleena Ganguly, Sandip Kumar Datta, Shyantee Datta, Indrajeet Dasgupta

Final Decision : Allowed

Judgement

Protik Prakash Banerjee, J

1. This petition under Article 226 of the Constitution of India is at the instance of a trade union. It challenges a notice at page 114 of the writ petition as procedurally ultra vires. The said notice dated December 20, 2014, stated as follows: -

"NOTICE"

In view of the directive received from Department of Heavy Industries, Ministry of Heavy Industries & Public Enterprises, Government of India, the retirement age of non-executive employees of Rupnarainpur Unit is fixed at 58 years. In view of above, 60 days notice is hereby given to all the non-executive employees of the Rupnarainpur Unit of HCL to cover statutory compliance if any."

This was signed by the Deputy General Manager (Personnel and Administration) for Deputy General Manager (Unit Head) of the Hindustan Cables Ltd,

Rupnarainpur Unit. It was expressed to be to all trade unions of the said unit and was displayed on the Notice Board for the information of all concerned. It was served, and this is of material importance, as courtesy copies to the M(P&A), M(W)-I, M(W)-II, M(W)-III, CM, DGM(UH), M(P&A & Legal)/Corp. Officer, and CMD. These copies were stated to be served "for kind information".

2. Perhaps the factual matrix of the case ought to be briefly noted. It is an admitted position that the employer Hindustan Cables Limited, Rupnarainpur units published its standing orders on July 06, 1964. This was duly certified by the Certifying Officer and Labour Commissioner of West Bengal. Clause 20 (i) of the said standing orders deals with superannuation. It has been provided in the standing orders that every employee shall retire from service on attaining the age of 58 years with the provision for extension of service of two (02) years in all, but not more than one (01) year at a time may be given at the discretion of the management. Admittedly, a tripartite settlement was entered into on July 07, 1974 between the management duly represented by its Managing Director, Chief Commercial and Administration Manager, Financial Manager, Joint Personal Manager as then in-charge of the said unit and four unions represented by their respective General Secretaries, as the then were, and in presence of H. M. Ghosh the then Additional Labour Commissioner and Conciliation Officer, Government of West Bengal. Clause no. 12 of the said tripartite settlement provided as follows:

"Subject to the approval of the Board of Directors the employees will retire on attaining the age of 60 years instead of attaining 58 years of age."

Subsequently, the Government of India wanted to enhance the age of retirement from 58 to 60 years. In case, any administrative ministry or public sector undertaking did not want to increase this age of superannuation specific exemption from the operation of the aforesaid decision was provided to be necessary by and under a Memo dated August 21, 1998. However, the employer by a Resolution at the 276th Meeting of its Board of Directors held on March 28, 2001 resolved to reduce the age of retirement of its employees from 60 to 58 years which the Government of India by the Government Order dated April 18, 2001 said it had approved of and further directed that the reduction for the age of superannuation be implemented immediately after amending the standing orders in consultation with the Labour Department. The writ petitioner refers to a bipartite settlement and the conduct of the employer in allowing the payment of salaries to employees even under the aegis of the Board for Industrial and Financial Reconstruction considering the age of superannuation as 60 years without granting any extension from fifty eight years. Ultimately, the decision of the Union of India to reduce the age of retirement to 58 years travelled to the concerned Assistant Labour Commissioner (Central Government) at the instance of the employer by its letter dated March 11, 2011 seeking intervention by way of conciliation over the said issue. However, the conciliation proceedings failed and no reference was made by the Union of India (the appropriate Government) to any industrial forum. This has not been challenged by the writ petitioners.

3. Instead, on the basis of several representations made by the petitioners and/or employees' union the respondent no.1 by a letter dated September 22, 2014 clearly reiterated that the reduction of the age of retirement from 60 to 58 years and payment of gratuity/provident fund as well as issue of pay slip to the employees beyond 58 years is "the administrative matter prerogative of the management. Hence, the dispute raised cannot be construed as an Industrial dispute. On the above premises, the company is advised to immediately take appropriate steps for roll back of retirement age from 60 years to 58 years at par with other employees of the company by way of issuance of Notice under The Industrial Disputes Act, 1947 and Industrial Disputes Rules made thereunder for making necessary change of the Conditions of Service of the concerned employees of the Unit with immediate effect. Compliance Report may please be sent to the Department in this regard."

On the basis of this the Memo as in paragraph no.1 dated December 20, 2014 was issued.

4. Mr. Arunabha Ghosh, learned Senior Advocate, ably assisted by Ms. Debaleena Ganguly has raised some preliminary objections without going into the merits of the case, to my entertaining the writ petition. These are briefly summarized as follows: -

a. The question of reduction of age was refused to be referred by the appropriate government to an industrial adjudicatory forum by its letter dated September 22, 2014. Only because of that, was the impugned memo dated December 20, 2014 issued. Without challenging the refusal as aforesaid, which the writ petitioners have not done, it is not open to them to challenge its consequence being the impugned memo.

b. Reduction of the age of superannuation of workmen amounts to change of the terms and conditions of their service, and is a dispute under Section 9A of the Industrial Disputes Act, 1947. A complete code has been enacted with statute and statutory rules to adjudicate dispute and the writ court ought not to entertain the writ petition at the first instance.

c. Whether a dispute under Section 9A of the Industrial Dispute Act, 1947 exists is also a question of fact which the writ court is ill equipped to determine and ought not to determine.

d. Whether a dispute as to the change in the terms and conditions of service under the Standing Orders Act, 1946 can only be decided by the appropriate Labour Court, when the dispute is referred to it, and it has the mechanism and the infrastructure and statutory mandate to do it, which the Writ Court under Article 226 of the Constitution of India ought not to do?

e. Mr. Ghosh has relied upon several precedents in support of his submissions.

f. On facts, though this is not a preliminary objection, he tried to take me through the decision for "roll-back" of the age of retirement as a government

policy for sick industrial companies including those which were government companies or "State" within the meaning of Article 12 of the Constitution of India and that it has survived challenges before and up to the Apex Court. That ought not to detain us, because the question here is whether the writ court can entertain the matter at all, and if so, what relief it can grant when the refusal to refer the dispute to an industrial adjudicatory forum was not challenged by the petitioners.

5. Mr. L.K. Gupta, learned Senior Advocate, asked me to bear with him while he answered all the questions raised by the respondents which were of a preliminary nature by reference to the provisions of the Industrial Disputes Act, 1947, the rules made thereunder and the statutory forms appended to the rules; he submitted that once he was allowed to refer to these provisions, he could show that none of the preliminary objections was sufficient to throw his client out of the writ court acting under Article 226 of the Constitution of India, 1950.

The paradigm shift he proposed comprises three words: procedural ultra vires. Very briefly I can summarize his submissions as the contention that the procedure established by the statute and/or statutory rules was not substantially complied with and the irregularity was so material as to become a nullity. For this he referred to section 9A of the Industrial Disputes Act, 1947, rule 34 of the Industrial Disputes (Central) Rules, 1957 and Form -E. He relied upon certain precedents to buttress his submissions.

6. For the sake of convenience, I had better extract the provisions of the statute and statutory rules and the said Form E for better appreciation of the procedure that has been alleged to have been substantially violated:

9A. Notice of change-

No, employer, who proposes to affect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,--

(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within forty-two days of giving such notice:

Provided that no notice shall be required for effecting any such change--

(a) where the change is effected in pursuance of any [settlement or award]; or

(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.

Rule 34- Notice of Change

Any employer intending to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule to the Act shall give notice of such intention in Form E.

The notice shall be displayed conspicuously by the employer on a notice board at the main entrance to the establishment in the Manager's Office:

Provided that where any registered trade union of workmen exists, a copy of the notice shall also be served by registered post on the secretary of such union.

FORM E

(See rule 34)

Notice of Change of Service Condition Proposed by an Employer

Name of employer

Address.....

Dated the.....day of.....20.....

In accordance with section 9A of the Industrial Disputes Act, 1947, I/we hereby give notice to all concerned that it is my/our intention to effect the change/changes specified in the annexure, with effect from.....in the conditions of service applicable to workmen in respect of the matters specified in the Fourth Schedule to the said Act. Signature.....

Designation.....

ANNEXURE

(Specify the change / changes, intended to be effected)

Copy forwarded to:

- (1) The Secretary of registered trade union, if any;
- (2) Assistant Labour Commissioner (Central) of local area.....
- (3) Regional Labour Commissioner (Central).....Zone;
- (4) Chief Labour Commissioner (Central).....

7. I have quoted the contents of the notice dated December 20, 2014 from page 56 of the affidavit-in-opposition used by the respondents No.4, 5 and 6 at paragraph 1 of this Judgment and mentioned on whom and how they were served. Very conspicuously, there is no mention anywhere that a copy of the same was served on the Secretary of the Registered Trade Union, by registered post, though it was indicated that a copy was being served on the General Secretary of Hindustan Cable Workers' Union. Very significantly, admittedly there was no service made or effected or even attempted to be made on the statutory

authorities such as the Assistant Labour Commissioner of the local area, the Regional Labour Commissioner (Central) of the Eastern Zone or the Chief Labour Commissioner and/or any of them. It is true, that the writ petitioners did not plead in the writ petition that it was not served on the said secretary by registered post or the effect of the non-service on the statutory authorities as mandated by the statutory rules which indicate that the notice must be in prescribed form. Yet it appears from the face of the records in a writ petition where a prayer has also been made for invoking the certiorari jurisdiction. The parties have advanced submission on its basis.

8. Therefore, on the face of the notice dated December 20, 2014, it does not comply with the statutory and prescribed form, *id est*, the manner in which the notice was to be given more specifically Form E the Rules. The statutory addressees were neither addressed nor served as stated in paragraph 7 above and as appears from paragraph 1 of this judgment. The respondent employer purported to act in terms of statutory rules as it was required by the respondent no.1 through the concerned Ministry. It had, therefore, to act in the manner prescribed, or not at all. Any other way of acting was necessarily forbidden. This is a species of procedural *ultra vires* argued by Mr. L. K. Gupta, learned Senior Advocate, and he has relied upon the following precedents of a binding nature to buttress his submissions: -

(i) Nazir Ahmed-v-King Emperor reported in AIR 1936 Privy Council at page 253.

(ii) Bhavnagar University-v-Palitana Sugar Mill Pvt. Ltd. and Others reported in AIR 2003 SC 511.

9. Mr. Gupta rightly submits that once a particular course of proceeding is shown to be procedurally *ultra vires* on its face, it is a nullity and no effect can be given thereto. If it is a nullity, then there is no question of any statutory alternative remedy. So far as the notice is concerned, he submits that it must be quashed by way of judicial review since there is no dispute that this was the notice that the respondents are relying upon, on the basis of which the petitioners and/or the members of the first petitioner are being deprived of their livelihood at the age of 58 years, contrary to the manner prescribed and so none of the cases cited by the respondents come to their aid.

10. At this juncture, perhaps it will be appropriate for me to refer to the judgments cited by the respondents in support of their submissions as I have summarized at paragraph 4 above, more particularly as I have referred to in paragraph 4e and also my opinion as to the extent to which they are applicable to the present case.

11. The judgments referred to by Mr. Ghosh, learned Senior Counsel, for the respondents are as follows: -

(i) Hindustan Cables Ltd. and Others-v-Tapan Kumar Sarkar and Others reported in (2016) 4 Cal LT 220 equivalent to 2016 SCC Online Cal 4385, for the following

principles of law laid down by the Hon'ble Division Bench in a Bench decision: -

"We have noted in details the arguments advanced on behalf of the parties. We have given anxious consideration to the submissions of the parties. The subject matter of the writ petition is purely a monetary claim. The writ petitioners insist that they are entitled to salary and other benefits for service rendered between 58 years and 60 years of age while the company maintains that retirement age at all material times was 58 years and in any event, the employees, in fact, did not render any service beyond the age of 58 years. These are disputed questions of fact which, in our opinion, cannot be conveniently gone into in the exercise of writ jurisdiction. There is an alternative and much more efficacious statutory remedy available to the writ petitioners. Sec. 33C(2) of the Industrial Disputes Act provides for a mechanism for resolution of disputes relating to a workman's claim for money or any benefit which can be computed in terms of money. The said Section is as follows:-

"S. 33C(2). Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate government.

Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit."

67. We are of the view that the claim of the writ petitioners projected in the present proceeding can be adjudicated properly, more conveniently and much more efficaciously by the Labour Court. It is the Labour Court which the writ petitioners should have approached instead of invoking the writ jurisdiction of this court.

68. The view we are taking is not only because of the existence of an alternative remedy. We are conscious that existence of an alternative remedy is not a complete bar to the maintainability of a writ petition. It is only a rule of self-imposed restriction that a court follows while exercising high prerogative writ jurisdiction under Art. 226 of the Constitution of India. In several cases, including the case of Whirlpool Corporation (supra), the Apex Court has observed that availability of an alternative remedy per se does not denude the writ court of jurisdiction. Thus, in cases where the order/action challenged is without jurisdiction or the order has been passed or action taken in breach of the principles of natural justice, the writ court may be justified in entertaining an application under Art. 226 of the Constitution in spite of an alternative remedy being available to the aggrieved party. However, that is not the case here. There is no reason why the writ petitioners should not approach the labour Court under Sec. 33C(2) of the ID Act.

69. Further, whether or not the writ petitioners, in fact, rendered service to the company beyond the age of 58 years is a question of fact that has to be established on the basis of proper evidence at a regular trial. If the writ petitioners did, in fact, render service to the company beyond the age of 58 years and till the age of 60 years, then and in that event, they should surely be entitled to receive salary for that period along with other benefits. This is irrespective of whether or not the retirement age was ever raised from 58 years to 60 years. The company having enjoyed services of the writ petitioners, it is only fair, just and equitable that the company should pay their salaries for that period. In that event, it would not lie in the mouth of the company to take the technical plea of the retirement age being 58 years.

70. However, if the company is able to establish that, in fact, the writ petitioners did not render any service beyond the age of 58 years, the writ petitioners should not be entitled to any salary or other benefits beyond the age of 58 years. 'No work no pay', is an established principle of law.

71. In our considered opinion, the documents relied upon by the writ petitioners/respondents in respect of their contention that they served the company till the age of 60 years, are not conclusive. If the company is able to establish its case that since 2003 the Rupnarainpur Unit of the company was virtually lying closed and the writ petitioners showed attendance only on papers which were also prepared by them and their colleagues, it would be unfair to foist liability on the company for paying the wages and other benefits of the writ petitioners beyond the age of 58 years. That would also result in unjust enrichment of the writ petitioners. These are questions of fact, determination whereof requires a full-fledged trial with witness action, for which the writ court is not the forum. Labour Courts have been set up to entertain and adjudicate upon precisely the kind of dispute that is involved in the present writ proceeding."

APPLICABILITY: In this case the writ petition is not directed towards securing a money claim. It is not in dispute that the writ petitioners were superannuated pursuant to the notice dated December 20, 2014. It cannot be disputed that it did not conform to the statutory prescribed form as I have indicated in paragraph 7 of this judgment read with paragraph 4. There is no dispute as to facts which can only be decided by a competent labour court or tribunal formed under the Industrial Disputes Act, 1947 or any question of evidence being led. Therefore, while respectfully agreeing with the principle of law laid down thereby, I reiterate that their Lordships were also pleased to hold that where the action challenged is without jurisdiction, a petition under Article 226 of the Constitution of India will be maintainable regardless of the statutory alternative remedy. Since procedural ultra vires has been alleged and established on the face of the records, the act is wholly without jurisdiction and a nullity and this judgment in fact helps the writ petitioners instead of hindering them, in establishing that the writ petition ought to be entertained for the limited purpose of judicial review of the notice dated December 20, 2014 and the manner in which it was issued and mode adopted.

The respondents in their written argument, have argued that the procedural ultra vires of the said notice is irrelevant because whether or not there has been any violation of Section 9A of the Industrial Disputes Act, 1947 has occurred is itself a dispute which only a forum under the said Act of 1947 is competent to decide, as it has next submitted by reference to another decided case.

(ii) Hindustan Steel Works Construction Ltd. and Another-v- Hindustan Steel Works Construction Ltd. Employees' Union reported in (2005) 6 SCC 725 at paragraph 13 to 20 for essentially the following proposition: -

"We find that the learned Single Judge observed that he was not entering into the factual controversy, overlooking the fact that the question relating to applicability of Section 9A is essentially question of fact. The Division Bench did not discuss the basic issues about the applicability of Section 9A and whether on the facts of the case Section 9A has really any application. It was disposed of with the following observations:

'The employees concerned are workmen within the meaning of that term as defined under Section 2 of the Act and withdrawal of construction allowance from them tantamounts to a change in the conditions of service. In that view of the matter, the management of the appellant company ought not to have withdrawn the construction allowance presently paid to the employees without issuing notice envisaged under Section 9A of the Act.'

The inevitable conclusion, therefore, is that both learned Single Judge and the Division Bench have failed to consider the basic issues."

APPLICABILITY: It is therefore clear that in that case, the Hon'ble Supreme Court was pleased to decide that when the High Court, both in Single Bench and sitting in Division Bench, had failed to consider the basic issues including whether in the facts of the case Section 9A of the Industrial Disputes Act, 1947 really did have any application, but nonetheless intervened in its jurisdiction under Article 226 of the Constitution of India, it was not proper. Section 9A of the Industrial Disputes Act, 1947, as I have extracted in paragraph 6 of this judgment, clearly shows that it is applicable when there is a change in the conditions of service applicable to the workman and as appears from the Letter of the respondent No.1 dated September 22, 2014, the notice dated December 20, 2014 was issued by the employer respondent No.4 pursuant to the said Letter dated September 22, 2014. This letter clearly mentioned that the notice was to be in respect of changes of the conditions of service as required under statute and statutory rules, as extracted in paragraph 3 of this judgment. Therefore whether or not Section 9A is applicable is no longer res integra and is the admitted position. If the respondents were not changing the terms and conditions of service then the respondent no.1 would not have issued the letter dated September 22, 2014 requiring it to issue the notice dated December 20, 2014. My order is passed after considering this aspect of the matter and that on the face of the records Section 9A of the Act of 1947 is applicable and the respondents are estopped by

records and their conduct from contending otherwise. This judgment too, therefore, is not applicable to oust the petitioners from the writ jurisdiction of this court.

(iii) *Forbes Forbes Campbell & Co. Ltd-v-Engineering Mazdoor Sabha* reported in (1979) 1 SCC 14 at paragraph 8 for the principle that a statutory form appended to the Rules, in that case,

"Form-A, has to be read not rigidly but flexibly and with an amount of latitude. In that sense substantial compliance will be sufficient. To make our point we may illustrate: supposing within 12 months prior to the application, meetings have been held as required by Section 19(2) but a day or two this side or that, it has tripped, that does not disqualify. It is also possible to conceive of other inconsequential deviations. Such minor departure cannot have an invalidatory effect."

APPLICABILITY: In West Bengal a notice under Section 9A of the Act of 1947 is to be of 42 days. The respondents have given 60 days' notice and the respondents say that this was served and made known to the workmen and their union. They say that once this was done, there was no violation of the basic principles of natural justice and so there was substantial compliance and that is why they have relied upon this judgment. However, the judgment itself, in the very next sentence at paragraph 8, goes on to show that the departure in that case was not merely inconsequential and for that departure the Hon'ble Supreme Court was not pleased to hold that the act was not vitiated. In the instant case, the statutory form of the notice envisages that copies are to be served on the statutory authorities mentioned therein, as I have indicated in paragraphs 7 and 6 of this judgment. This was not done. This cannot be considered to be merely inconsequential and trifling deviation. Therefore, I cannot agree that there has been substantial compliance with Form-E in this case. This judgment, too, does not help the respondents.

12. Now that I have dealt with the respective judgments cited by the parties and indicated my view as to their applicability it is possible to record my opinion about the submissions made by the respondents. So far as the points raised in paragraphs 4b, 4c and 4d are concerned, I take them up together. As must appear from the findings I have recorded while dealing with the judgments cited as in paragraph 11 above, and its sub-paragraphs, I am not impressed that I am dealing with a disputed question of fact or that it is at all possible on the face of the records, for the respondents to dispute that Section 9A of the Industrial Disputes Act, 1947 is attracted or has been violated, since *ex facie* no notice has been issued which substantially complies with the prescribed statutory form and thus the judgments relating to disputed questions of facts and considering whether the said provision is applicable and that only a forum under the said Act of 1947 is equipped to decide the matter on evidence, do not apply to the present case and they are distinguishable on facts as I have done above. In fact, I rely upon *Hindustan Cables Ltd.* (Supra) decided by the Hon'ble Division Bench

to hold that where the act is without jurisdiction, the court retains plenary power under Article 226 of the Constitution of India to intervene in the matter. The next and last question is whether, in an absence of a challenge to the refusal of the appropriate government to refer the dispute to an appropriate forum by the letter dated September 22, 2014 it is possible to challenge its consequence being the notice dated December 20, 2014. I hold that it is so possible, since the challenge is on the basis of procedural ultra vires and that the notice has not been issued in terms of the said letter dated September 22, 2014, which made compliance with the statute and the statutory rules mandatory and on the face of the said notice dated December 22, 2014, there has been substantial deviation and non-compliance with the prescribed form and its requirements under statutory rules. Therefore, it is a nullity and as a nullity, no consequence can be given to it, and I can quash it.

13. However, even if I quash the said notice dated December 20, 2014, what will it avail the writ petitioners? The standing orders on their face show that the age of retirement is 58 years and not 60 and no due amendment to it was made. If the writ petitioners claim on a settlement, tripartite or bi-partite, or plead the practice of the employer in not issuing order of retirement to any workman before the age of 60 years and not by way one-year extension at a time, that is not something I can adjudicate, without taking evidence and that is not something I would like to do in the jurisdiction I exercise under Article 226 of the Constitution of India. A settlement, even if tripartite, cannot be enforced under Article 226 of the Constitution of India without first having recourse to the forum established under the Industrial Disputes Act, 1947 under whose provisions the settlement becomes enforceable - it is a special statute meant inter alia for that special purpose, and it was never a common law right or a right available in equity. That apart, if the petitioners rely upon the stand of the respondent no.4 before the Board for Industrial and Financial Reconstruction and the revival package, if I rely upon it to hold that the age of retirement of the workmen of the respondent no.4 stood enhanced to 60 years in place of 58 years, I will be holding that it is possible to change the conditions of service of workmen otherwise than by following the procedure established under Section 9A of the Act of 1947 which I cannot do as a writ court since I am not above but subject to the laws. Besides, the decision of the respondent no.1 and its agencies to have the age of superannuation as 58 years, if necessary, by rolling it back where it was duly enhanced, has been upheld up to the Hon'ble Supreme Court and this is not disputed from the Bar. Therefore, though I am firmly of the opinion that the notice dated December 20, 2014 cannot stand and is a nullity being procedurally ultra vires and the respondents are estopped from alleging that it is not, while I quash the said notice dated December 20, 2014, I make it clear that this by itself does not mean that the workmen of the petitioner union being the workmen of the respondent no.4, shall continue or were entitled to continue in employment till they attain or attained the age of 60 years. That will be governed by the certified standing orders of the respondent no.4 and any dispute relating to that

cannot be decided by this court under Article 226 of the Constitution of India in the first instance and the writ petitioner had their remedy against the same before the forum under the Act of 1947 which they have not availed of, before coming to this court.

14. The writ petition is thus allowed to a severely limited extent by quashing the impugned notice dated December 20, 2014 as a nullity with no consequential benefits in view of the observations made at paragraph 13 of this judgment. There shall be no order as to costs.

(PROTIK PRAKASH BANERJEE, J.)

Later:

Urgent photosat certified copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities within seventy-two (72) hours.

(PROTIK PRAKASH BANERJEE, J.)