
(1993) 01 RAJ CK 0012

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1392 of 1984

Hindustan Machine Tools Ltd.

APPELLANT

Vs

Industrial Tribunal and Another

RESPONDENT

Date of Decision : 06-01-1993

Acts Referred:

Constitution of India, 1950 — Article 12

Industrial Disputes Act, 1947 — Section 10(1), 12(5), 2, 2(1), 25F

Citation : (1993) 1 LLJ 1168 : (1993) 1 WLC 415

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : R.C. Joshi, for the Appellant; Virendra Bandhu, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Singhvi, J.—Order of reference dated October 6, 1982 (Ex.5) passed by the Government u/s 10(1)(d) read with Section 12(5) of the Industrial Disputes Act, 1947 (for short Act of 1947) and the award dated September 21, 1984 (Ex.7) passed by the Industrial Tribunal, Jaipur, in I.T. Case No. 306/82 have been challenged in this writ petition filed under Articles 226 and 227 of the Constitution of India.

2. Hindustan Machine Tools Ltd. is an instrumentality of Central Government having its Head Office at Bangalore. It has 18 factories/ units all over India including the one at Ajmer. H.M.T. Shramik Sangh is a registered Trade Union of the employees and is recognised by the Managing Committee of the petitioner company. The respondent No. 2 submitted a charter of demand to the management of the petitioner company and then approached the Conciliation Officer cum Regional Assistant Labour Commissioner, Ajmer. Since the parties could not settle the matter a failure report was submitted by the Conciliation Officer: Supplementary demands were also raised by the respondent No. 2. On the basis of the failure report submitted by the Conciliation Officer, the Government issued notification dated October 6, 1982 and made reference of the

dispute relating to the demands raised by the respondent No. 2. The respondent No. 2 filed a statement of claim in support of its demands. In respect of the demand No. 3 it enclosed Annexures-A and B giving details about 19 employees in whose favour demand had been raised and also details of ten employees who were said to be juniors to them. The Union claimed that these 19 employees were employed in Foundry Department and Stores Department. The Union claimed that although these workers were engaged in the work of the Company in regular and permanent departments and the work was also of permanent nature and they were working under the control of the Supervisor and the Foreman, yet, they were being paid less wages and were being denied the benefits which were admissible to the employees of the company. This was being done in the garb of treating these employees to be employees of the contractor. The Union claimed that the Supervisor and Foreman of the company used to assign the work to these employees, mark their attendance, gave passes for going from one place to another and they were under the direct administrative and financial control of the company. The Union also claimed that iron is melted in the foundry department and is then sent to the other departments for manufacturing purpose and without the foundry department the company cannot run its factory. Similarly, the Stores Department is required to maintain the supply of the goods and other equipments used for the manufacturing purpose. In order to deny benefit of the various legislations, two-three days break is given in the service of these employees and then they are again employed. All these workmen possess requisite qualifications but, they are being denied all the benefits admissible to regular employees. In the reply, the petitioner company asserted that the employees in respect of whom demand No.3 was raised were not its employees and the correct position is that the work of loading and unloading, transferring heavy castings etc. is being done through the employees of the contractor. Such works are assigned on contract basis. Other employees of the company do not do that work. Such persons are engaged by the Contractor and they work under the control and supervision of the Contractor. No record of such employees is maintained by the company. These workers are governed by the Contract Labour Regulation and Abolition Act, 1970 and the dispute relating to them cannot form a subject matter of industrial dispute under the 1947 Act. The company also claimed that the reference made by the Government itself was invalid and the Government had no jurisdiction to make such reference. It also pleaded that the Tribunal had no jurisdiction to hear such reference.

3. For the purpose of evidence workmen filed their affidavits as also of the General Secretary of the respondent No. 2 and on behalf of the petitioner company Shri N.K. Bhuthra, Foreman, filed his affidavit.

4. After considering the pleadings of the parties and the evidence led before it, the learned Tribunal held that 19 employees were actually employees of the company and their services have been terminated without compliance of the provisions of Sections 25F and 25G of the Industrial Disputes Act and therefore, termination of their service is illegal. The Tribunal ordered their reinstatement

with back wages if they were not employed elsewhere during the intervening period. The Tribunal ordered payment of wages to them in W.G. 1.

5. In assailing the reference and the award Shri R.C. Joshi, learned counsel for the petitioner company has, in the first place, argued that the State Government of Rajasthan had no jurisdiction to make a reference in respect of the dispute relating to the so-called employees of the petitioner company. Shri Joshi argued that the Government of Rajasthan is not an appropriate Government. For the purpose of Section 2(a) of 1947 Act, the appropriate Government is the Central Government. Shri Joshi argued that although, a specific objection regarding the competence of the State Government to make reference was made, the Tribunal has not adjudicated upon the same. Shri Virendra Bandhu, learned counsel for the respondent No. 2, on the other hand, submitted that no objection regarding competence of the State Government to make reference had been raised and, therefore, this question must not be allowed to be raised for the first time in this writ petition. Shri Bhandhu submitted that even otherwise, the objection is wholly misconceived, because the Government of Rajasthan is the "appropriate Government" for the purpose of making such reference. He placed reliance on the decision of this Court in *State Farms Corporation of India v. R. Taneja* 1985 I LLJ 144 and also the decision of the Supreme Court in *Heavy Engineering Mazdoor Union v. State of Bihar* 1969 II LLJ 548, *Management of Vishnu Sugar Mills Harkhua v. Workers represented by Management of Vishnu Sugar Mills Limited, Harkhua, District Saran, Bihar Vs. Their Workmen Represented by Chini Mill Mazdoor Union, Harkhua, Dist. Saran, Bihar, and Ahmedabad Millowners' Association and Another Vs. I.G. Thakore, President and Others*,

6. After having perused the award dated, September 21, 1984 I am convinced that no objection regarding competence of the State Government to make reference with reference to Section 2(a) of 1947 Act was raised before the Industrial Tribunal. Obviously, for this reason no adjudication on this question finds reference in the award of the Tribunal. Even from the pleadings of the petitioner company which were submitted before the Tribunal, it is evident that such objection had not been raised. The objection which had been raised by the petitioner company regarding the maintainability of the reference related to the applicability of the provisions of 1947 Act. According to the company the provisions of Contract Labour (Regulation and Abolition) Act, 1970 were applicable and, therefore, no reference could be made under the Industrial Disputes Act, 1947. This objection cannot be read as an objection regarding the competence of the State Government, to make reference with reference to Section 2(a) of 1947 Act. When it is clear that no objection was raised by the petitioner regarding the competence of the State Government, I find no justification whatsoever for entertaining this objection for the first time in the exercise of writ jurisdiction under Articles 226 and 227 of the Constitution of India. That apart, a bare look at the statement made in para 2 of the petition shows that the petitioner Company has claimed itself to be a commercial agency and the instrumentality of the Central Government. It has been stated that the

Company is a public enterprise which is controlled by the Government of India and it is engaged in the manufacture of various machine tools of common use for railways and defence establishments. It is a Government of India undertaking. Section 2(a) of 1947 Act reads as under:-

"2(a) "appropriate Government" means-

(i) in relation to any Industrial Disputes concerning (***) any industry carried on by or under the authority of the Central Government, (***) or by a railway company (or concerning any such controlled industry as may be specified in this behalf by the Central Government (***) or in relation to an Industrial Dispute concerning (a Dock Labour Board established u/s 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), or the Industrial Finance Corporation of India established u/s 3 of the Industrial Finance Corporation Act, 1947 (15 of 1948), or the Employees' State Insurance Corporation established u/s 3 of the Employees' State Insurance Act, 1948 (34 of 1948), or the Board of Trustees constituted u/s 3A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), or the Central Board of Trustees and the State Boards of Trustees constituted u/s 5A and Section 5B, respectively, of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952), or the "Indian Airlines" and "Air India" Corporations established u/s 3 of the Air Corporations Act, 1953 (27 of 1953), or the Life Insurance Corporation of India established u/s 3 of the Life Insurance Corporation Act, 1956 (31 of 1956), or the Oil and Natural Gas Commission established u/s 3 of the Oil and Natural Gas Commission Act, 1959 (43 of 1959), or the Deposit Insurance and Credit Guarantee Corporation established u/s 3 of the Deposit and Credit Guarantee Corporation Act, 1961 (47 of 1961) or the Central Warehousing Corporation established u/s 3 of the Warehousing Corporation Act, 1962 (58 of 1962), or the Unit Trust of India established u/s 3 of the Unit Trust of India Act, 1962 (62 of 1963) or the Food Corporation of India established u/s 3 or a Board of Management established for two or more contiguous States u/s 16 of the Food Corporations Act, 1964 (37 of 1964) or the International Airports Authority of India, constituted u/s 3 of the International Airports Authority of India Act, 1971 (43 of 1971) or Regional Rural Bank established u/s 3 of the Regional Rural Banks Act, 1976 (21 of 1976) or the Export Credit and Guarantee Corporation Ltd. or the Industrial Reconstruction Bank of India, or (the Banking Service Commission established u/s 3 of the Banking Service Commission Act, 1975) or (a banking or an insurance company a mine, an oil-field, (a Cantonment Board) or a major port, the Central Government and,

(ii) in relation to any other Industrial Dispute the State Government."

7. This definition clearly shows that all bodies including the companies which can appropriately be termed as agencies or instrumentalities of the Central Government for the purpose of Article 12 of the Constitution of India have not been treated as industries in respect of which reference can be made by the Central Government. A number of statutory bodies have been specified in Clause

(d) of Section 2(1), but, there is no reference in that clause to the companies registered under the Companies Act. Thus, even though in a company registered under the Companies Act, Central Government may have 100 per cent shares and it may exercise some degree of control financial as well as administrative, the company's character as a company is not altered. Its separate entity as a company is not obliterated. The petitioner has not come out with the case that it is an industry carried on by or under the authority of the Central Government. Holding all shares by the Government or exercising control over the company does not by itself mean that the company is being carried by or under the authority of the Central Government.

8. In *Natrajan and Ors. v. Regional Assistant Commissioner of Labour and Ors.* ILR A.P. 2075, Andhra Pradesh High Court has held that, "If a company is registered under the Companies Act, although the Government is share holder having all the shares and having the power to nominate a large majority of Directors, does not alter the character of the company and the company thereby does not become an industry run either by the Government or under its authority and the appropriate Government with respect to the industrial dispute in such a industry is the State Government."

9. In *National Tobacco Co., Employees Union (Regd), Jullundur Vs. Manohar Singh and Another*, it has been held that the Government of the State within which one of the offices of the company is situated is the appropriate Government.

10. In *Heavy Engineering Mazdoor Union v. State of Bihar (Supra)*, their Lordships of the Supreme Court have held that the heavy engineering is not working under the authority of the Government.

11. In *State Farms Corporation of India Ltd. v. R. Taneja (supra)*, this court has held as under:-

"The word "authority" must be construed according to its ordinary meaning and therefore, must mean a legal power given by one person to another to do an act. In other words, a person is said to be authorised or to have an authority when he is in such a position that he can act in a certain manner without incurring liability to which he would be exposed, but for the authority, or, so as to produce the same effect as if the person granting the authority had for himself does the act. The words "under the authority of" means authorising to the authority, such as where an agent or servant acts under such authority of his principal."

12. In the instant case, there is no such material available on record to show that the industry is being run directly by the Central Government. The company is not a department of the Central Government. Instead, it is a separate and independent body having a legal entity. Therefore, in a dispute arising in respect of office of the company at Ajmer, the State Government must be treated as an "appropriate Government" u/s 2(a) of the Industrial Disputes Act, 1947.

13. The other argument of Shri Joshi relates to the applicability of the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 and consequential exclusion of the provisions of the industrial Disputes Act, 1947. Shri Joshi has strenuously urged that 19 employees in respect of whom demand No. 3 was raised were employees of the contractor. Shri Joshi referred to Annexures 1 and 2 as well as the contents of the charter of demand submitted by respondent No. 2 and argued that the union had itself treated the 19 persons to be the employees of the contractor. Once these persons are treated to be the employees of the contractor the provisions of the Industrial Disputes act, stand excluded. Shri Joshi argued that the Contract Labour (Regulation and Abolition) Act, 1970 is a special statute and it shall prevail as against the provisions of the Industrial Disputes Act. He placed reliance on the decision of this court in S.B. Civil Writ Petition No. 1007/80, Delhi Cloth and General Mills Co. Ltd. v. State of Rajasthan and Ors., decided on November 26, 1990, Dena Nath and others Vs. National Fertilisers Ltd. and others, General Labour Union (Red Flag), General Labour Union (Red Flag) Vs. K.M. Desai and others, National Airport Authority, Delhi and Ors. v. Bangalore Airport Co-operative Service Society 1991 2 CLR 778 and P. Karunakaran Vs. Chief Commercial Superintendent, Southern Railway and Others,

14. On the strength of these authorities Shri Joshi argued that the Labour Court has committed a grave error of going into the merits of the dispute because, it is only the State Government which can give appropriate directions in accordance with the provisions of 1970 Act. No other authority or agency has got authority or jurisdiction to make an order in such matters.

15. Shri Virendra Bandhu, learned counsel for the respondent No. 2, on the other hand, has argued that the Tribunal has very correctly appreciated the questions referred to it. The reference made by the Government related to the question, as to whether the employees engaged through the contractor should be treated employees of H.M.T. Ltd. and whether they have a right to be re-employed in H.M.T. with consequential benefits. Shri Bandhu has argued that the Tribunal has taken into consideration the entire evidence which had been placed before it and after giving due consideration to the evidence brought on record, the Tribunal has recorded a finding of fact that the 19 workmen were in fact the employees of the petitioner company and that termination of their service was brought about in violation of Section 25F and 25G of the 1947 Act. Shri Bandhu argued that in such a finding of fact no interference is called for from this court under Article 226 of the Constitution of India. He placed reliance on the decision of the Supreme Court in Hussainbhai, Calicut Vs. The Alath Factory Thezhilali Union, Kozhikode and Others, He also placed reliance on the decision of Calcutta High Court in Tollyganj Club Ltd. v. 5th Tollygunge Club Ltd. Vs. Fifth Industrial Tribunal and Others,

16. The demand No. 3 which formed part of the reference made by the Government related to the question, as to whether the employees engaged through the contractor should be treated as employees of the petitioner company

and whether they were entitled to be reinstated in service with the benefits admissible to the employees of H.M.T. Ltd. In its claim petition the Union gave details of 19 employees in the form of Annexure-A. These employees were engaged in the foundry department of the petitioner company. The petitioner company denied the claim made by the workmen and stated that 19 persons were employees of the contractor. They were never employed by the Company and they were engaged only for the purpose of loading and unloading, transferring of heavy castings and other materials from one place to another. They worked under the supervision of a contractor or his agent. The Tribunal examined the nature of work being done by these 19 persons. It noted that in all the 19 workers appeared as witness before it and the General Secretary of the Union gave evidence on behalf of the remaining workers. The Tribunal took notice of the statements of the workers who stated that they were engaged in the service of the company for different periods. They worked according to the directions of the Supervisor who took their attendance. They used to work under Shri Chadha and Shri Tyagi and they were not employees of the Contractor Ex. W-45 to Ex. W-55 are the documents produced before the Tribunal. These documents are permission slips which have been issued by the management of the company and on the basis of these slips, the workers could visit the canteen, dispensary etc. The other documents produced before the Tribunal were in the form of attendance sheets, sign of the Foreman indicating the shifts in which the employees had worked. They also indicated the overtime work done by them. Temporary identity slips were issued by the Management indicating their designations as Helper, Welder, Store Keeper. There is no evidence showing that the employees worked for the purpose of loading and unloading. The evidence produced on behalf of the management was in the form of statements of Shri Nawal Kishore Bhutra. He made general statement about the work done by contractors and stated that the contractors used to engage the labours and got work done from them. When he was asked as to what work of loading and unloading was done by the casual workers, he could not explain. He stated that such work was taken only for four or five days in a month. The Tribunal then observed that these workers had been engaged in the foundry section. One of them Shri Daya Shankar was engaged in the Stores. Some workers were engaged in the Assembly section. The Tribunal observed that the nature of work being done by the workers was of regular nature which was a part of the integral process and they could not be treated as persons employed only for the purpose of loading and unloading. The Tribunal noticed that the management had not produced evidence on record to substantiate its plea that the workers were engaged only for loading and unloading work. The Tribunal also took note of the fact that the management had failed to produce the evidence regarding the nature of agreement between the contractors and the company. After this comprehensive evaluation of the evidence the Tribunal held that the 19 employees were in fact engaged by the company and they were not employees of the contractor. The name of the contractor was only introduced in order to deceive the workers from the benefits which could legally accrue to them.

17. On the basis of the findings recorded by the Tribunal it is clearly borne out that:

(1) 19 employees were made to work in the Foundry, Stores and Assembly sections of the company.

(2) The work of these sections is of permanent nature and it forms integral part of the working of the factory.

(3) Attendance of the workers was taken by the staff of the factory of the company. They were given work by the Supervisor and Foreman of the company. The directions were also given by them. The attendance was taken by the other employees of the company (Foreman). Temporary identity slips were issued by the management to the workers and they were given permissions to visit canteen and dispensary. Workers were designated as Helpers, Welders and Store Keepers.

(4) No evidence about the nature of agreement between the contractor and the management was produced.

(5) No evidence regarding loading and unloading by these 19 workers was produced before the Tribunal.

(6) The only witness of the management stated that the loading and unloading work was done for only 4 to 5 days in a month.

(7) The workers of contractor could not have been asked to do work which is a part of the industry itself.

18. Shri Joshi, learned counsel for the petitioner, has not been able to show as to how the findings of fact recorded by the Tribunal suffer from perversity or any other error of law apparent on the face of the record. The Tribunal has examined the entire evidence in a correct perspective. It has not ignored any admissible evidence and at the same time, it has not taken into consideration any legally inadmissible evidence. The conclusion reached by the Tribunal is not an impossible one and the mere fact that there is a remote possibility of forming a different opinion or arriving at a different conclusion than the one to which the Tribunal has arrived at, in my opinion, there is no ground for holding that the award passed by the Tribunal suffers from error of law apparent on the face of the record. I find justification in the submission of Sbri Bandhu that the findings arrived at by the Tribunal on the question of relationship of master and servant between 19 workers and the petitioner company is a finding of fact and does not call for interference by this Court.

19. In Syed Yakoob Vs. K.S. Radhakrishnan and Others, the Supreme Court has laid down the principles regarding exercise of certiorary jurisdiction by the High Court under Articles 226 and 227 of the Constitution. Their Lordships have held that the findings of fact recorded by the trial court or the Tribunal can be interfered with only on the ground of perversity. In the instant case, I do not find

any reason to hold that the Tribunal's findings suffer from perversity.

20. In *Mangalore Ganesh Beedi Works and Others Vs. Union of India (UOI) and Others*, and in *Hussain Bhai v. Allah Factory Tezhilahi Union*(supra) their Lordships of the Supreme Court have held that "Where worker or group of workers, labourers produce goods or services and these goods or services are for the business of another that other is in fact the employer. The persons of intermediate contractors with whom alone the workers have immediate or direct relationship, is of no consequence when on lifting the veil or looking to the conspectus of factors governing employment it is found that draped in perfect paper arrangement real employer is the management not the immediate contractor."

21. In *Delhi Cloth and General Mills and Co. Ltd. v. State of Rajasthan* (supra), the reference made by the State Government was to the effect that all workers who are working with the contractors on permanent jobs should be made permanent and recruitment from outside be stopped. This court examined the scope of the provisions of 1947 Act vis-a-vis provisions of 1970 Act and held that terms and conditions of employment of contract labour are regulated by the provisions of 1970 Act and, therefore, the provisions of Industrial Disputes Act are not applicable. The learned Single Judge noted that, "In the present case, there does not appear to be any dispute between the parties that the contract labour was employed under the provisions of the Act and the contractor is registered one and has licence and the petitioner has come out with a specific case that most of the work is intermittent such as loading or unloading of raw material received and loading of finished products sent outside the petitioner's factory." The court further observed that since the subject-matter of reference is only abolition of contract labour and as such the reference was bad. Same view has been expressed by another learned Single Judge in *S.B. Civil Writ Petition No. 1218/81, Delhi Cloth and General Mills Co.Ltd. v. State of Rajasthan and Ors.* and two connected writ petitions decided on October 22, 1991. Reference made in that case also related only to the employees of the contractor and the court was called upon to decide the validity of reference only. Following the earlier decision of this court, the learned Single Judge has held that reference was contrary to the provisions of 1970 Act.

22. In *P. Karunakaran v. Chief Commercial Superintendent* (supra), a division bench of Karnataka High Court was called upon to adjudicate a question as to whether the employees of the Contractor were having a right to claim absorption in railway service after expiry of the term of licence and termination of service of the workman by the contractor. The Division Bench of the Karnataka High Court held that the Southern Railway is not the employer. The contractor had engaged them and since his licence had come to an end, the workers had no right to be absorbed in the service of the Railways and that no legal right vested in such persons to be absorbed in the service of the Southern Railway.

23. In *General Labour (Red Flag), Bombay's case* (supra) , a learned Single

Judge of Bombay High Court held that the employees engaged by a contractor to run the canteen of a company cannot become employees of the company if the contractor fails to register the contract with the appropriate authorities. A perusal of that judgment shows that the case advanced by the petitioner Union was that the contractor had failed to get himself registered under the Act of 1970 and had failed to pay dues. The canteen was given to the contractor by inviting tenders and the employees were engaged by the contractor. Both these cases of Karnataka and Bombay High Court are of little relevance to the question involving challenge to the validity of the award passed by the Tribunal.

24. In National Airport Authority's case (supra) the division bench of Karnataka High Court held that the work of portage involving carrying on the luggage of passengers was neither a work in the establishment nor in connection with the functions of the Airport. The contractor obtained licence u/s 12 of 1970 Act and engaged the workers. The workers were having co-operative society and their service conditions were governed by the terms and condition of the bye-laws of the society. There was no privity of contract between the Airport Authority and the applicants. The licence given to the co-operative society had expired. It was subsequently given to some other person. In that fact situation it was held that the employees cannot be treated as those of the National Airport Authority. In my opinion, that decision is also of no help to the petitioner.

25. In Dinanath v. National Fertilizers (supra) the question which arose before their Lordships of the Supreme Court was as to whether the principal employer who does not get registration u/s 12 of 1970 Act, is the person employed by the Principal employer through the contractor, deemed to be the direct employee of the principal employer. Their Lordships of the Supreme Court analysed the provisions of 1970 Act and then referred to various decisions of different High Courts and held that violation of Sections 9 and 12 of 1970 Act would attract penal provisions under Sections 22 and 23 of 1970 Act and in exercise of writ jurisdiction under Article 226, the High Court cannot issue a mandamus for deeming the contract labour as having become the employees of the principal employer. Their Lordships have, in their judgment, referred to the earlier decision in Standard Vacuum Refining Company v. Their Workmen 1960 II LLJ 233, wherein the award passed by the Tribunal was upheld. The Tribunal had in that case, ordered abolition of contract labour. Their Lordships of the Supreme Court had observed that, if the work done was of intermittent or of temporary nature, it would not be possible for the employer to engage full time employees. Dinanath's case is of little help to the petitioner because in that case, the Supreme Court was only dealing with the question of non-compliance of Section 7 and 12 of 1970 Act and it reversed the decision of Punjab High Court which had accepted the writ petitions filed under Article 226 of the Constitution. Their Lordships were not dealing with an award where finding of fact had been recorded about the actual control of the management of the company or the employer over the work being done by the employees. In fact, the observations made in Standard Vacuum Refining Co. (supra), supports the case of the

respondent No. 2. Thus, none of the decisions on which reliance has been placed by Shri Joshi are of any help for accepting the submission of Shri Joshi that the Industrial Tribunal had no jurisdiction to adjudicate upon the reference because of the provisions of 1970 Act.

26. I also do not find any merit in the submission of Shri Joshi that the Tribunal has committed error in holding that the termination of service of 19 persons was brought about in violation of Sections 25F and 25G. In para 15 of its award the Tribunal has taken note of the contents of the Chart Annexure-A for holding that the workers had worked for over 240 days before they were not taken on work again. Although, the Tribunal has, in so many words, held that the service of workmen was terminated as a measure of retrenchment, it has not been shown to this court that the service of these persons was terminated by non-engagement, otherwise than by way of retrenchment. Provision of Section 2(oo) of 1947 Act, as it stood then, was clearly applicable and termination of service of workmen amounted to retrenchment. The petitioner has not shown that before bringing about retrenchment of the service of the workmen provisions of Section 25F had been complied with. Thus, there is no such error of law in the award of the Tribunal which warrants interference by this Court.

27. Direction of the Tribunal that the workmen should be paid wages in WG-1 is also justified. Shri Bandhu has urged that WG-I is the lowest grade in the service of the petitioner. Shri Joshi has not been able to controvert this statement of Shri Bandhu. Once the employees are treated as employees of the company they have a right to be paid salary in the lowest grade applicable to the service of the company.

28. Thus, I do not find any merit in any of the submissions of Shri Joshi. The writ petition fails and it is hereby dismissed.