

(1971) 07 KAR CK 0012

In the Karnataka High Court

Case No : Writ Petition No's. 2846 and 2847 etc. of 1970

Ideal Jawa (India) Pvt. Ltd.

APPELLANT

Vs

C. Madan Mohan and Another

RESPONDENT

Date of Decision : 22-07-1971

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Industrial Disputes Act, 1947 — Section 33, 33 (2) (b), 33 (3)

Citation : (1972) 24 FLR 315 : (1972) 1 LLJ 316 : (1971) 2 MysLJ 472

Hon'ble Judges : E.S. Venkataramiah, J;B. Venkataswami, J

Bench : Division Bench

Judgement

Per E.S. Venkataramiah, J.—The above writ petitions filed under Arts. 226 and 227 of the Constitution of India, against four orders passed by the Industrial Tribunal, Bangalore (hereinafter referred to as the Tribunal), have given rise to common questions of law, and, therefore, they are disposed of by this common order.

2. The petitioner in W.Ps. 2846 and 2847 of 1970 is the Ideal Jawa (India) P. Ltd. and the petitioner in W.Ps. 3185 and 3205 of 1970 is Bharat Electronic Limited. W.P. 2846 is filed against the order dated 26-5-1970 in S.L. No. 15 of 1969 in I.D. No. 77 of 1968 on the file of the Tribunal. The said order is passed on an application made by the workman Madan Mohan seeking permission to lead evidence on the several pleas which he had raised in his statement of objections to the application for approval filed by the management under S. 33(2)(b) of the Industrial Disputes Act (hereinafter referred to as the Act). After holding an enquiry into the alleged misconduct of the workman the management passed an order dismissing him from service and made an application for approval of the action taken by it under S. 33(2)(b) of the Act since the adjudication of an industrial dispute was pending before the Tribunal, and the alleged act of misconduct was an act unconnected with the dispute. The said application was opposed by the workman and it was pleaded, inter alia, on his behalf that the order of dismissal had been passed against him for his trade union activities and

that the action of the management in terminating his services was mala fide. It was further pleaded that the order of dismissal was also an act of victimisation. Before the Tribunal disposed of the said application under S. 33(2)(b) of the Act, an application was filed on behalf of the workman seeking permission to lead evidence on the several pleas raised in the statement of objections. That application was opposed by the management. After hearing the parties, the Tribunal passed the impugned order permitting the workman to lead evidence only in support of his plea of victimisation. It is that order which is challenged in the above writ petition.

3. The order impugned in W.P. 2847 of 1970 is similar to the one impugned in W.P. 2846 of 1970, the only difference between this and the other petition being that the application pending before the Tribunal is one made under S. 33(3) of the Act for permission to dismiss one Inayathulla Sheriff, who is the workman involved in an act of alleged misconduct. In that case also, objections were filed on behalf of the workman containing allegations similar to the objections filed on behalf of the above said Madan Mohan and an application was made on behalf of the workman seeking permission to lead evidence in support of the pleas raised in the statement of objections. The Tribunal allowed the said applications only to the extent of permitting the workman to lead evidence on the issue of victimisation.

4. In W.Ps. 3185 and 3205 of 1970, the management has challenged a common order passed on Sl. No. 30 and Sl. No. 31 of 1966 in I.D. Nos. 55 and 101 of 1966 on the file of the Tribunal. In both these cases, the management had made applications under S. 33(2)(b) of the Act for granting approval to the dismissal of two workmen, D. S. Raju and M. S. Mani. There again in the statement of objections filed to the above applications, it was pleaded that the enquiry on which the management relied upon was vitiated on several grounds, one of them being victimisation of the workmen by the management. In these two cases, on behalf of the workmen, applications were filed seeking permission to lead evidence in support of the several pleas raised in the statement of objections. After hearing the parties the Tribunal passed the aforesaid common order permitting the workmen to lead evidence on the question of victimisation only. Aggrieved by the said order, the petitioner has filed the above two petitions.

5. It may be mentioned here that in all these cases, the managements have held enquiries into the alleged acts of misconduct said to have been committed by the concerned workmen and have come to the conclusion that the workmen concerned are guilty of those acts of misconduct. They have also come to the conclusion that the concerned workmen are liable to be dismissed. Whereas in the case of the workmen concerned in W.P. 2847 of 1970 no order of dismissal has yet been passed, in the other three cases orders of dismissal have been passed by the management. In all these cases the objections taken on behalf of the workmen contain an allegation that the findings arrived at the enquiries were vitiated on the ground of victimisation. It is also to be seen that in none of these

four cases, the managements have desired to lead any evidence in support of their prayers in the applications made by them.

6. The question for consideration in all these cases, therefore, is whether in such a situation the workmen concerned can be permitted to lead evidence in support of the pleas raised by them touching the validity of the enquiries held against them and whether by permitting the workmen to lead evidence on the question of victimisation, the Tribunal in aforesaid circumstances had exceeded the jurisdiction conferred on it by law. Since the said questions are common to all the four petitions, we heard them together and they are being disposed of by this common order.

7. The contention of the petitioners in all these cases is that the Tribunal had no jurisdiction to pass the impugned order permitting the workmen concerned to lead evidence in support of their pleas that the domestic enquiry held against each of them stood vitiated by reason of acts of victimisation on the part of the managements, when no evidence is led by the managements concerned in support of their application under S. 33 of the Act. The answer to this question depends upon several factors such as the nature of the authority which is entrusted with the duty to decide the case, the scope of the enquiry, the nature of questions to be decided, the extent of power conferred on the authority and the purpose of the enquiry. That the Tribunal while dealing with an application under S. 33 of the Act is exercising judicial function is not open to dispute. It, therefore follows that its decision should be based on objective considerations on the material placed before it. The Tribunal has to hear the parties and give findings on questions of law and fact before disposing of the application.

8. In order to understand the scope of the enquiry by the Tribunal under S. 33 of the Act, the provisions of that section have to be borne in mind. The relevant parts of the said section are set out below :-

"33. Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings. - (1) During the pendency of any conciliation proceeding before a Conciliation Officer or a Board or of any proceeding before an Arbitrator or a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall -

(a) (b) for any misconduct connected with the dispute, discharge or punish whether by dismissal or otherwise, any workman concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute, or where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman ...

(a) (b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, the workman :

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-s. (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute -

(a) (b) by discharging or punishing whether by dismissed or otherwise, such protected workman,

save with the express permission in writing of the authority before which the proceeding is pending.

Explanation. - For the purpose of this sub-section a "protected workman", in relation to an establishment, means a workman who, being an officer of a registered trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf.

(4) (5) Where an employer makes an application to a Conciliation Officer, Board, an Arbitrator, a Labour Court, Tribunal or National Tribunal under the proviso the Sub-s. (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, as expeditiously as possible, such order in relation thereto as it deems fit."

The object of enacting S. 33 of the Act in the above form has been explained by the Supreme Court in *The Lord Krishna Textile Mills Vs. Its Workmen*, as follows :

"Section 33 occurs in Chapter VII of the Act which contains miscellaneous provisions. The object of S. 33 clearly is to allow continuance of industrial proceedings pending before any authority prescribed by the Act in a calm and peaceful atmosphere undisturbed by any other industrial dispute; that is why the plain object of the section is to maintain status quo as far as is reasonably possible during the pendency of the said proceedings. Prior to its amendment by Act 36 of 1956, S. 33 applied generally to all cases where alteration in the conditions of service was intended to be made by the employer, or an order of discharge or dismissal was proposed to be passed against an employee without making a distinction as to whether the said alteration or the said order of discharge or dismissal was in any manner connected with the dispute pending before an industrial authority. In other words, the effect of the unamended section was that pending an industrial dispute the employer could make no alteration in the conditions of service to the prejudice of workmen and could pass no order of discharge or dismissal against any of his employees even though the proposed alteration or the intended action had no connection whatever with the dispute pending between him and his employees. This led to a general complaint

by the employers that several applications had to be made for obtaining the permission of the specified authorities in regard to matters which were not connected with the industrial dispute pending adjudication; and in many cases where alterations in conditions of service were urgently required to be made or immediate action against an offending workman was essential in the interest of discipline the employers were powerless to do the needful and had to submit to the delay involved in the process of making an application for permission in that behalf and obtain the consent of the Tribunal. That is why, by the amendment made in S. 33 in 1956 the Legislature has made a broad division between action proposed to be taken by the employer in regard to any matter connected with the dispute on the one hand, and action proposed to be taken in regard to a matter not connected with the dispute pending before the authority on the other."

A reading of the above would show that if the management wants to alter the conditions of service applicable to workmen, in regard to any matter connected with an industrial dispute pending adjudication between the management and workmen or if the management, for any misconduct connected with the dispute, wishes to discharge or punish by way of dismissal or otherwise any workman connected with such dispute, the management has to apply to the Tribunal before which the dispute is pending adjudication for its permission in writing. Sub-section (2) of S. 33 of the Act deals with alterations in the conditions of service as well as discharge or dismissal of workman concerned in any pending dispute where such alteration or such discharge or dismissal is in regard to matter not connected with the said pending dispute. In such cases, no such workman can be discharged or dismissed unless he has been paid wages for one month and an application has been made before the authority before which the proceeding is pending for approval of the action taken by the employer. Sub-section (3) of S. 33 of the Act provides that notwithstanding anything contained in Sub-s. (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute either by altering to the prejudice of such workman, the conditions of service applicable to him immediately before the commencement of such proceedings or by discharging or punishing, whether by dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending. The statute therefore made a distinction between cases falling under sub-s. (1) and sub-s. (3) of S. 33 of the Act on the one and cases falling under sub-s. (2)(b) of S. 33 on the other. Whereas in the case of matters falling under sub-ss. (1) and (3) of S. 33 of the Act, previous permission of the Tribunal has to be obtained by the management to take action as contemplated therein, in matters falling under sub-s. (2)(b) of S. 33 of the Act, it was open to the management to seek approval of the action already taken by it. Dealing with the distinction between the action under S. 33(1) and (3) of the Act and S. 33(2)(b) of the Act in *The Lord Krishna Textile Mills Vs. Its Workmen*, referred to above, the Supreme Court observed as followed :-

"The requirement that he must obtain approval as distinguished from the requirement that he must obtain previous permission indicates that the ban imposed by S. 33(2) is not as rigid or rigorous as that imposed by S. 33(1). The jurisdiction to give or withhold permission is *prima facie* wider than the jurisdiction to give or withhold approval. In dealing with cases falling under S. 33(2) the industrial authority will be entitled to enquire whether the proposed action is in accordance with the standing orders, whether the employee concerned has been paid wages for one month, and whether an application has been made for approval as prescribed by the said sub-section. It is obvious that in cases of alteration of conditions of service falling under S. 33(2)(a) no such approval is required and the right of the employer remains unaffected by any ban. Therefore, putting it negatively the jurisdiction of the appropriate industrial authority in holding an enquiry under S. 33(2)(b) cannot be wider and is, if at all, more limited than that permitted under S. 33(1), and in exercising its powers under S. 33(2) the appropriate authority must bear in mind the departure deliberately made by the Legislature in separating the two classes of cases falling under the two sub-sections, and in providing for express permission in one case and only approval in the other. It is true that it would be competent to the authority in a proper case to refuse to give approval, for S. 33(5) expressly empowers the authority to pass such order in relation to the application made before it under the proviso to S. 33(2)(b) as it may deem fit; it may either approve or refuse to approve; it can, however, impose no conditions and pass no conditional order.

Section 33(3) deals with cases of protected workmen and it assimilates cases of alterations of conditions of service or orders of discharge or dismissal proposed to be made or passed in respect of them to cases falling under S. 33(1); in other words, where an employer wants to alter conditions of service in regard to a protected workman, or to pass an order of discharge or dismissal against him, a ban is imposed on his right to take such action in the same manner in which it has been imposed under S. 33(1)."

9. Dealing with the scope of jurisdiction of the Tribunal under S. 33(1) and (3) and S. 33(2) of the Act when an application is made for permission to discharge or dismiss an employee or for approval of such an action on the basis of the enquiry held by the management for determining the act of misconduct of the workman concerned, the Supreme Court has held that the Tribunal has to satisfy itself about the validity of the enquiry and the *bona fides* on the part of the management before granting such an application. The Supreme Court has laid down in several cases the grounds on which the finding arrived at by the management at an enquiry held for the purpose of determining the guilt of the workmen concerned, can be discarded and the application made on its basis can be rejected. It is not necessary to refer to all the cases cited at the Bar on this question. It is enough if reference is made to a few of them.

10. Gajendragadkar, J. (as he then was) observed in *Management of Ritz Theatre*

(P) Ltd. Vs. Its Workmen, on the scope of the enquiry before the Tribunal when the management relies upon the result of an enquiry held by it as follows :-

"The first point which Mr. Andley has raised before us is that in dealing with the dispute on the merits, the Tribunal has exceeded its jurisdiction. Industrial disputes arising from orders passed by employers terminating the services of their employees have frequently come to this Court in appeal and the principles which govern the limits, and the due scope, of the exercise of the Industrial Tribunal's jurisdiction in respect of such disputes have been examined by this Court on several occasions. It is well-settled that if an employer serves the relevant charge or charges on his employee and holds a proper and fair enquiry it would be open to him to act upon the report submitted to him by the enquiry officer and to dismiss the employee concerned. If the enquiry has been properly held, the order of dismissal passed against the employee as a result of such an enquiry can be challenged if it is shown that the conclusions reached at the departmental enquiry were perverse or the impugned dismissal is vindictive or mala fide, and amounts to an unfair labour practice. In such an enquiry before the Tribunal, it is not open to the Tribunal to sit in appeal over the findings recorded at the domestic enquiry. This Court has held that when a proper enquiry has been held, it would be open to the enquiry officer holding the domestic enquiry to deal with the matter on the merits bona fide and come to his own conclusions.

It has also been held that if it appears that the departmental enquiry held by the employer is not fair in the sense that proper charge had not been served on the employee or proper or full opportunity had not been given to the employee to meet the charge, or the enquiry has been affected by other grave irregularities vitiating it, then the position would be that the Tribunal would be entitled to deal with the merits of the dispute as to the dismissal of the employee for itself. The same result follows if no enquiry has been held at all. In other words, where the Tribunal is dealing with a dispute relating to the dismissal of an industrial employee, if it is satisfied that no enquiry has been held or the enquiry which has been held is not proper or fair or that the findings recorded by the enquiry officer are perverse, the whole issue is at large before the Tribunal. This position also is well-settled.

In regard to cases falling under this last category of cases, it is, however, open to the employer to adduce additional evidence and satisfy the Tribunal that dismissal of the employee concerned is justified.

And, in such a case, the Tribunal would give opportunity to the employer to lead such evidence, would give an opportunity to the employee to meet that evidence, and deal with the dispute between the parties in the light of the whole of the evidence adduced before it. There can be little doubt even about this position."

11. After reviewing the earlier decision of the Supreme Court in *Atherton West*

and Co. Ltd. Vs. Suti Mill Mazdoor Union and Others, , The Automobile Products of India Ltd. Vs. Rukmaji Bala and Others, , and Lakshmi Devi Sugar Mills Ltd. Vs. Pt. Ram Sarup, , the Supreme Court held in The Punjab National Bank Ltd. Vs. Its Workmen, , as follows :

"Where an application is made by the employer for the requisite permission under S. 33 the jurisdiction of the Tribunal in dealing with such an application is limited. It has to consider whether a prima facie case has been made out by the employer for the dismissal of the employee in question. If the employer has held a proper enquiry into the alleged misconduct of the employee, and if it does not appear that the proposed dismissal of the employee amounts to victimisation or an unfair labour practice, the Tribunal has to limit its enquiry only to the question as to whether a prima facie case has been made out or not. In these proceedings it is not open to the Tribunal to consider whether the order proposed to be passed by the employer is proper or adequate or whether it errs on the side of excessive severity; nor can the Tribunal grant permission, subject to certain conditions, which may deem to be fair. It has merely to consider the prima facie aspect of the matter and either grant the permission or refuse it according as it holds that a prima facie case is or is not made out by the employer.

But it is significant that even if the requisite permission is granted to the employer under S. 33 that would not be the end of the matter. It is not as if the permission granted under S. 33 validates the order of dismissal. It merely removes the ban; and so the validity of the order of dismissal still can be, and often is, challenged by the union by raising an industrial dispute in that behalf. The effect of compliance with the provisions of S. 33 is thus substantially different from the effect of compliance with S. 240 of the Government of India Act, 1935, or Art. 311(2) of the Constitution. In the latter classes of cases, an order of dismissal passed after duly complying with the relevant statutory provisions is final and its validity or propriety is no longer open to dispute; but in the case of S. 33 the removal of the ban merely enables the employer to make an order of dismissal and thus avoid incurring the penalty imposed by S. 31(1). But if an industrial dispute is raised on such a dismissal, the order of dismissal passed even with the requisite permission obtained under S. 33 has to face the scrutiny of the Tribunal."

12. What emerges from a reading of the several decisions of the Supreme Court cited at the Bar is that if at a proper enquiry held by the management, there is prima facie proof of act of misconduct committed by the workman and that the order of discharge or dismissal does not suffer from mala fides or amount to an unfair labour practice or victimisation, the Tribunal has to grant permission or approval prayed for under S. 33 of the Act.

13. The question whether proper enquiry has been held or not involves enquiry into questions such as whether the workman has been duly notified of the charge, whether he has been given opportunity to submit his explanation, whether the workman had opportunity to cross-examine witnesses examined on

behalf of the management and whether the workman could lead evidence in his defence. These questions may properly be considered by examining the record of enquiry relied upon by the management. But it may not always be possible to decide the question whether the enquiry has been vitiated on account of mala fides, unfair labour practice or victimisation, by merely looking into the records of enquiry. There may be cases where the facts necessary to establish the existence of such vitiating circumstances may not be known to the workman at the time of the enquiry or even if he knew he may not have been able to establish them at the enquiry for sufficient reason. Under these circumstances, is it unreasonable to hold that the workman may lead evidence in support of the pleas of mala fides, victimisation or unfair labour practice ?

14. The burden of establishing that an enquiry held by the management is vitiated on account of mala fides, victimisation or unfair labour practice is on the workman as can be seen from the decision of the Supreme Court in *Orissa Cement Ltd., Rajganpur v. Their Workman* 1960 II LLJ 91 in which the Supreme Court observed as follows :

"In dealing with the question of bona fides the Tribunal appears to have lost sight of the fact that it is for the party alleging mala fides to lead reliable evidence in support of the said plea. In the present case, we see no trace of any such evidence; and so it is difficult to sustain the ultimate finding of the Tribunal that the order of discharge should be set aside and the appellant should be ordered to reinstate the respondent."

In another decision of the Supreme Court, namely, *Central India Coalfields v. Ram Bilas* 1961 I Ilj 546 : AIR 1961 S.C. 1189, dealing with the contention urged on behalf of the workmen concerned that the enquiry preceding the order of dismissal was vitiated on the ground of mala fides, the Supreme Court observed as follows :

"Besides, it is significant that no such point was raised before the Tribunal itself by the respondent's representative. It is not possible for us to allow Mr. Choudhri to raise a point of mala fides for the first time in this appeal. That is a question of fact on which no material has been adduced by the respondent either before the enquiry officer or before the Tribunal."

In *P.H. Kalyani Vs. Air France Calcutta*, it was held by the Supreme Court that the finding on a question of victimisation was generally one of fact.

15. It is, therefore, clear that the allegations of mala fides, bias, victimisation or unfair labour practice are questions of fact and the burden of establishing the same is on the workman who alleges them. If that is the legal position, it necessarily follows that the workman should have an opportunity to establish the same by independent evidence before the Tribunal which is charged with the duty of finding out whether the enquiry held by the management is vitiated on account of any one of these circumstances. We find that the High Court of Allahabad has taken the same view in *Raza Textiles Ltd. v. Kishori Lal Sharma*

1966 I lj 605. But having regard to the views expressed by the Supreme Court about the importance of domestic enquiries in the scheme of industrial adjudication, we are of the opinion that this right of adducing evidence by the workman cannot be an unqualified one. In such cases the workman can lead evidence in support of the aforesaid allegations if he satisfies the Tribunal that either he did not know the facts on which he relies or that he was prevented by sufficient reason to lead evidence when the domestic enquiry was pending. To hold otherwise would amount to a denial of the right given to the workman to demonstrate that the enquiry is vitiated for one or the other reason on which the Tribunal can hold that the application made under S. 33 of the Act should be rejected.

16. To summarise, - (1) when an application is filed under S. 33 of the Act, the Tribunal can by taking evidence, if necessary, examine whether the case falls under sub-secs. (1), (2) or (3) of S. 33 of the Act and if the Tribunal comes to the conclusion that the case falls under sub-s. (1) or sub-s. (3) the application filed under S. 33(2)(b) of the Act has to be rejected; (2) If the application is one filed under S. 33(3)(b) of the Act the Tribunal should consider whether the dismissal or discharge is in accordance with the standing orders applicable to the workman concerned and whether wages for one month have been paid or tendered; (3) When the management has relied upon the finding that the workman has committed an act of misconduct arrived at a domestic enquiry held for the purpose of determining whether the workman has committed an act of misconduct or not, the Tribunal should satisfy itself that the enquiry is proper, that there is prima facie proof of the act of misconduct and that the enquiry is not vitiated by mala fides, bias, unfair labour practice or victimisation; (4) if it is satisfied that the enquiry is proper and there are no vitiating circumstances referred to above, the Tribunal should grant approval under S. 33(2)(b) or permission under S. 33(1) or (3) of the Act as prayed for unconditionally without attempting to reassess the evidence led at the domestic enquiry, as an appellate Court; (5) If the Tribunal holds that for any reason the domestic enquiry is defective, it shall allow evidence to be led before it by the management in support of the action proposed to be taken or already taken and also by the workman, and on a consideration of the material placed before it, it should decide whether the application should be granted or not : vide the decision of the Supreme Court in *Mysore Steel Works v. Jitendra Chandra Kar* 1971 I lj 543 ; (6) If there is no defect in the enquiry held, the workman should not be permitted to lead additional evidence before the Tribunal on the merits of the case : vide the decision of the Supreme Court in *Tata Oil Mills Co. Ltd. Vs. Its Workmen*, (7) If the workman alleges mala fides, bias, victimisation or unfair labour practice in his statement of objections and if it is shown that the workman either did not know the relevant facts which have to be established in support of the said allegations or could not for sufficient reasons prove them during the domestic enquiry, the Tribunal should permit the workman to lead evidence only to that limited extent even when the management which relies upon the domestic

enquiry does not choose to lead evidence on its behalf; and (8) The fact that the permission or approval, as the case may be, is granted under S. 33 of the Act does not prevent a reference of the dispute relating to the dismissal or discharge under S. 10 of the Act for adjudication.

17. In the above view of the matter, we are of opinion that the contention of the petitioner that the Tribunal had no jurisdiction to permit evidence to be let in by the workmen on any account is unsustainable. That that is the correct view to be taken also receives support from Rule 15 of the Industrial Disputes (Mysore) Rules by which the Tribunal is empowered to allow evidence to be adduced in any proceedings pending before it. We do not, therefore, find that the Tribunal exceeded its jurisdiction in passing the impugned order even though it has still to decide before recording evidence in accordance with the impugned orders, whether the workmen knew the relevant facts or were prevented for sufficient reason from adducing evidence on these facts during the domestic enquiry.

18. The next question is about the relief to which the petitioners are entitled in these cases. By the impugned orders, the Tribunal has only permitted the workmen to adduce evidence on the limited question of victimisation. It is not known whether the workmen knew the facts on which they rely at the time of the enquiry or they were prevented from leading evidence in that behalf during the domestic enquiry. The Tribunal should now satisfy itself about the said question before permitting the workmen to adduce evidence. In the circumstances of these cases, therefore, we feel that there is no necessity to quash the impugned orders. The Tribunal will, however, deal with the cases in the light of the observations made above.

19. In writ petitions Nos. 3185 and 3205 of 1970 we are informed that this Court has passed certain orders in some earlier writ petitions filed against certain earlier orders passed in the same proceedings. The Tribunal will also keep in view the decisions in those writ petitions while disposing of the cases to which they relate.

20. In the result, these writ petitions fail and are dismissed, but with no order as to costs.