

(2011) 02 BOM CK 0004

In the Bombay High Court

Case No : Writ Petition No. 5548 of 1997 with 7251 of 1999

Mahavir Steel Industries (P) Ltd., Pune and Another

APPELLANT

Vs

Pune Workers Union, Pune and Another

RESPONDENT

Date of Decision : 21-02-2011

Acts Referred:

Industrial Disputes (Bombay) Rules, 1957 — Rule 81
Industrial Disputes Act, 1947 — Section 25F, 25G, 25H
Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 — Section 59
Payment of Gratuity Act, 1972 — Section 2, 4(2)

Citation : (2011) 130 FLR 1103 : (2012) 1 LLJ 342 : (2012) 3 SLJ 73

Hon'ble Judges : Nishita Mhatre, J

Bench : Single Bench

Advocate : Meena H. Doshi and H.D. Buch instructed by Ms. N.D. Buch, for the Appellant;

Judgement

Ms. Nishita Mhatre, J.—These two Writ Petitions have been heard together since the facts involved in both the Petitions are interlinked. The parties to both the Petitions are the same. For the sake of brevity, the petitioner in the Writ Petition No. 5548/1997 will be referred to as "the Company" and the respondent No. 1 will be referred to as "the Union". Writ Petition No. 7251/1999 has been filed by the Union representing the workmen employed by the Company. The Award dated March 19, 1999 passed by the Industrial Tribunal. Pune, in Reference (IT) No. 27/1991, rejecting the demand for reinstatement with continuity of service and full backwages of 36 workmen, has been challenged in this Petition. Writ Petition No. 5548/1997 impugns the order dated October 17, 1997 passed by the Industrial Court, Pune in Complaint (ULP) No. 873/1991. The Industrial Court has partly allowed the complaint filed by the Union under Item 9 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, (for short "the MRTU & PULP Act"). It has directed the Company to allow 13 workmen who had not relinquished their right of reemployment to resume duties within one month of the date of the order, in

compliance with Section 25-H of the Industrial Disputes Act, 1947, (for short "the I.D. Act"). A further direction of payment of 50% of the backwages to these workmen from February 4, 1991 till they were provided work with the Company has also been given.

2. The Company took over the assets and liabilities of the Maharashtra Steel Industries Private Limited with effect from 10th November, 1980. These included two Rolling Mills i.e. a 6" Mill and a 10" Mill. A lay off was declared by the Company on November 29, 1989 citing the non availability of raw material as the reason for the lay off. The Union filed Complaint (ULP) No. 109/1990 on February 19, 1990 against this lay off. By an order dated March 27, 1990 the Company retrenched 36 workmen on the ground of non availability of raw material. An industrial dispute was raised by the Union on behalf of the workmen claiming reinstatement with continuity of service and full backwages. The dispute was referred for adjudication to the Industrial Tribunal, Pune in Reference (IT) No. 27/1991.

3. The Complaint (ULP) No. 109/1990 was dismissed for non-prosecution. It appears that the Union sought a modification of the order passed by the Industrial Court dismissing the complaint. Accordingly, the Industrial Court allowed the complaint to be withdrawn and directed the Union not to file a fresh complaint on the same cause of action with a further direction to pay costs to the Company. Being aggrieved by that decision, the Union preferred Writ Petition No. 1299/1990 before this Court. The order directing the Union to pay costs was deleted by consent.

4. An industrial dispute for reinstatement with continuity of service and full backwages was raised by the Union. The Company refused to concede the demand. The Union then approached the Conciliation Officer, who submitted a failure report to the Appropriate Government on December 18, 1990. Before the dispute could be referred to the Industrial Tribunal for adjudication, the Company called upon the retrenched workers to report for duty on or before February 4, 1991 as the raw material required for the manufacturing process was available. Without prejudice to the industrial dispute which was raised on their behalf by the Union, the workmen reported for duty on February 4, 1991 in order to exercise their preferential right of reemployment. The Appropriate Government referred the industrial dispute, which was raised by the Union for the reinstatement of the 36 workmen, to the Industrial Tribunal on September 7, 1991 in Reference (IT) No. 27/1991. It appears that the workmen, who had reported for duty without prejudice to their rights in the Reference, were not given work. They therefore filed Complaint (ULP) No. 873/1991 contending that the Company had breached the provisions of Section 25-H of the I.D. Act and had thereby committed an unfair labour practice under Item 9 of Schedule IV of the MRTU & PULP Act.

5. The Company raised a preliminary objection before the Industrial Tribunal regarding the maintainability of the Reference in view of the provisions of Section

59 of the MRTU & PULP Act. The Industrial Tribunal accepted the contention of the Company and by its order dated March 6, 1992 held that the Reference was not maintainable. Being aggrieved by this order, the Union preferred Writ Petition No. 2710/1992. By the order of March 6, 1992, the Award passed by the Industrial Tribunal dismissing the Reference was set aside as the cause of action in the complaint pending before the Industrial Court and that in the Reference before the Industrial Tribunal was different. The Industrial Tribunal was directed to decide the Reference on merits.

6. After the pleadings were complete, the Union filed an application for production of some documents and correspondence entered into by the Company with its suppliers. The Company opposed this application. The Industrial Tribunal by its order dated December 6, 1995 directed production of some of the documents sought by the Union. A part of the correspondence between the Company and its various suppliers was produced on record by the Company. The correspondence between the parties 1991 to March 27, 1996 was not produced and, therefore, a fresh application for production of these documents was filed by the Union. The Industrial Tribunal directed that the application would be considered when the arguments in the Reference were heard.

7. The Union filed certain documents including the report of the Regional Provident Fund Commissioner directing clubbing of the Company with another known as Ajinkya Electromelt Pvt. Ltd. Certain documents were filed by Ajinkya Electromelt indicating its supplies to various companies, including the Company, from the period from 1990-91 to 1994-95.

8. It appears that the Union contended that there was a short fall in the calculation of retrenchment compensation tendered to the workmen as it was calculated on the basis of 30 days and not 26 days. The Company, therefore, made good this difference by depositing the same in the Industrial Tribunal.

9. In the meantime, the Industrial Court decided Complaint (ULP) No. 873/1991 and the Industrial Court directed the Company to pay 50% of the backwages to the 13 retrenched workmen from February 4, 1991 till they were provided work by the Company. The Industrial Court held that the Company had committed an unfair labour practice as it had breached the provisions of Section 25-H of the I.D. Act. The Industrial Court observed that although all the workmen were ready and willing to join duty on February 4, 1991 the Company did not allow them to do so. It did not accept the contention of the Company that by its notice dated January 19, 1991 it had only enquired whether the workmen were willing to resume duty by way of reemployment. The correspondence of the Company with the Union, which was produced on record, was found to be evidence of the Company's dilatory tactics of reemploying the workmen by the Court. The Industrial Court, on the basis of the evidence recorded before it, found that the 10" Mill was running until 1993 and that the 6" Mill was being run with the help of the contract workers. Accepting the contentions of the Union and on appreciating the evidence on record, the Industrial Court held that out of 36

employees, 23 of them had relinquished their right of reemployment and only 13 workmen remained to be reemployed. The Court concluded that the evidence on record indicated that the Company had not merely tried to ascertain whether the workmen were willing to resume duties but had, in fact, offered work to them. Despite this offer, the workmen had not been allowed to resume duty, according to the Industrial Court. It, therefore, directed the payment of 50% of the backwages to the 13 workmen from February 4, 1991 till they resumed work.

10. Being aggrieved by the order passed by the Industrial Court in Complaint (ULP) No. 873/1991, the Company has filed Writ Petition No. 5548/1997. While admitting the Writ Petition, the impugned order of the Industrial Court was stayed. Aggrieved by this decision, the Union filed Letters Patent Appeal No. 58/1998. By way of interim relief, the Company was directed to allow the 13 workmen, who had not relinquished their right of re-employment, to resume their duties within one month of the date of the order, which was passed on March 5, 1998. However, the direction of the Industrial Court to pay backwages was stayed.

The Company then approached the Supreme Court in Civil Appeal No. 3782/1999. The order passed by the learned single Judge staying the Industrial Court's order was confirmed. The Letters Patent Appeal was, therefore, dismissed.

11. The Reference proceeded before the Industrial Tribunal simultaneously with the complaint. Evidence of the workmen and one of the Directors of the Company was led before the Industrial Tribunal. On March 19, 1999 the Industrial Tribunal rejected the Reference by concluding that the retrenchment was both legal and justified.

Submissions in Respect of the Award in Reference (IT) No. 27/1991.

Mr. Buch for the Union

12. The first contention is that retrenchment compensation was not paid on the basis of 26 days, as required, and therefore the order of retrenchment is void ab initio. Reliance was placed on the judgement of a learned single Judge of this Court in the case of Trade-Wings Limited Vs. Prabhakar Dattaram Phodkar and Others, . The deposit of the shortfall of retrenchment compensation in Court could not validate the retrenchment which was void ab initio. No seniority list was put up by the Company though there was evidence to indicate that the workmen were working on both, the 6" Mill as well as the 10" Mill. This resulted in a breach of the provisions of Section 25-G of the I.D. Act as the principle of "last come, first go" was not followed while retrenching the workmen. As regards the justifiability of the retrenchment, there was sufficient evidence on record to indicate that the raw material, though available, was not being supplied by Ajinkya Electromelt to the Company. Ajinkya Electromelt was the main supplier and, in fact, there was functional integrality between the two companies, as found by the Regional Provident Fund Commissioner in its clubbing report. There

was documentary evidence on record to indicate that Ajinkya Electromelt supplied its entire production to the Company in the years 1985-86, 1986-87 and 1987-88. An adverse inference ought to have been drawn against the Company for non production of certain correspondence which would have shown that there was a deliberate attempt on the part of the Company to reduce the production. There was evidence on record, which the Industrial Court has accepted in Complaint (ULP) No. 873/1991, which indicated that the workmen were working not only on the 10" Mill but also on the 6" Mill.

Ms. Doshi for the Company

13. The retrenchment was legal and justified. There was no shortfall as retrenchment compensation is required to be calculated on the basis of 30 days and not 26 days. Assuming it was to be calculated on the basis of 26 days, the Company has made good the shortfall and, therefore, in view of the judgements of the learned single Judges of this Court in the case of *Balmer Lawrie & Co. Ltd. v. Waman B. More and Another*, 1981 (42) FLR 272, and in the case of *Managing Director, Bombay Film Laboratory Ltd. Vs. Vasule. L.G. and Another*, , the retrenchment was valid. The Company had made ex-gratia payments to the workers which covered the shortfall in the retrenchment compensation and therefore the retrenchment was legal as held by the Calcutta High Court in the case of *Guest Keen Willams Ltd. Vs. The Fifth Industrial Tribunal and Others*, . In any event in the case of *Guru Jambheshwar University through Registrar Vs. Dharam Pal*, , the Supreme Court has held that retrenchment compensation has to be calculated on the basis of 30 days and not 26 days as in the case of gratuity payable under the Payment of Gratuity Act. There was no need for a seniority list since all the workmen employed in the 10" Mill had been retrenched. They were not working on the 6" Mill and, therefore, the question of a common seniority list of all the workmen was not required. Therefore, the retrenchment was legal. The Tribunal had concluded on the basis of the evidence on record that there was no raw material available and all efforts made by the Company to improve the supply proved to be futile. It had therefore held that the retrenchment was justified. The burden of proof was on the workmen to establish that the retrenchment was not justifiable. In the case of *Narang Latex and Dispersions Pvt. Ltd. Vs. S.V. Suvarna (Mrs.) and Another*, , the Division Bench of this Court has held that the party which approaches the Court alleging something against another must prove the same. The burden of proving that the termination of services was not legal or justified was on the workmen. The Union had failed to discharge this burden.

Submissions Regarding the Order dated October 17, 1997 in Complaint (ULP) No. 873/1991.

Mr. Buch for the Union

14. The Industrial Court has concluded that on the reopening of the 6" Mill, the Company had directed the workmen to resume work on that Mill. The workers

were prevented from resuming the work although they were offered re-employment. There was thus a breach of the provisions of Section 25-H. The Industrial Court had held that an unfair labour practice under Item 9 of Schedule IV of the MRTU & PULP Act had been committed by the Company after appreciating the evidence on record.

Ms. Doshi for the Company

15. The obligation of an employer to provide re-employment to retrenched workmen when the Company has work available, arises only if the workmen accept the retrenchment. In the present case since the retrenchment itself was challenged, therefore the question of providing reemployment to the retrenched workmen did not arise. The letter sent in 1991 while the proceedings were pending before the Conciliation Officer, did not offer re-employment. It was only a communication sent to gauge whether the workmen were willing to be re-employed. The Reference could not have been made if the workers had accepted retrenchment and joined duties in compliance with the offer made by the employer u/s 25-H of the I.D. Act. In any event, the 6" Mill, where the workers were offered re-employment, has been closed since the year 2000 and the 10" Mill was never restarted. Backwages are not payable as there is no pleading in respect of the workmen being unemployed after their services were terminated due to retrenchment.

16. The first issue which arises is whether the retrenchment compensation offered to the workmen was properly calculated and whether the retrenchment of the workmen on tendering this amount could be considered to be legal. The issue as to how the retrenchment compensation should be calculated is no longer res integra. In the case of *Guru Jambheshwar University v. Dharam Pal* (supra), the Supreme Court has held that the calculation of one day's average pay for the purposes of payment of retrenchment compensation is not the same as the procedure under the Payment of Gratuity Act. The Court after referring the judgement in the case of *Jeewanlal (1929) Ltd. Vs. Appellate Authority under the Payment of Gratuity Act and Others*, , has held:

13. The principle laid down in *Jeewanlal Ltd. v. Appellate Authority* (supra) and *Digvijay Woollen Mills Ltd. Vs. Shri. Mahendra Prataprai Buch*, can have no application for determining the retrenchment compensation u/s 25-F(b) of the Act as the words "average pay" occurring herein has been defined in Section 2(aaa) of the Act. The concept of 26 working days was evolved having regard to the definition of the word "wages" as given in Section 2(s) of the Payment of Gratuity Act, which uses the expression "all emoluments which are earned by an employee while on duty or on leave". Therefore, there is no warrant or justification for importing the principle of 26 working days for determining the compensation which is payable in terms of Section 25-F(b) of the Act.

14. There is another important feature which deserves notice. Subsequent to the decision of this Court in *Jeewanlal* an explanation has been added after second

proviso to Section 4(2) of the Payment of Gratuity Act, by Act 22 of 1987, which reads as under : "Explanation. In the case of a monthly rated employee, the fifteen days" wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty six and multiplying the quotient by fifteen." By adding the explanation, the legislature has brought the statute in line with the principle laid down in *Jeewanlal Ltd. v. Appellate Authority* (supra) and has given statutory recognition to the principle evolved viz. that in case of monthly-rated employee the fifteen days" wages shall be calculated by dividing the monthly rate of wages by twenty six and multiplying the quotient by fifteen. But, no such amendment has been made in the Industrial Disputes Act. If the legislature wanted that for the purposes of Section 25-F(b) also the average pay had to be determined by dividing the monthly wages by twenty six, a similar amendment could have been made. But the legislature has chosen not to do so. This is an additional reason for holding that the principle of "twenty six working days" is not to be applied for determining the retrenchment compensation u/s 25-F(b) of the Act.

17. Admittedly, the short fall in the retrenchment compensation has occurred only because of the calculation based on 30 days and not 26 days. In the light of the observations of the Supreme Court in the case of *Guru Jambheshwar University v. Dharam Pal* (supra), the retrenchment compensation tendered to the workmen was valid. I need not, therefore, consider the consequences of the shortfall in the tender of the retrenchment compensation or the subsequent deposit of the same before the Industrial Tribunal. Thus there is no violation of the provisions of Section 25-F of the I.D. Act and therefore the retrenchment cannot be said to be invalid on that count.

18. The retrenchment has also been challenged on the ground that the provisions of Section 25-G have been flouted. Mr. Buch has argued that the Industrial Court in Complaint (ULP) No. 873/1991 had found that the workmen who were called to resume duties in compliance with the provisions of Section 25-H of the I.D. Act were offered jobs on the 6" Mill and not the 10" Mill. He has, therefore, submitted that the Industrial Tribunal has failed to appreciate the fact that had the workers concerned in the Reference not been used to working on the 6" Mill, they would not have been offered re-employment on the 6" Mill. According to him, therefore, a common seniority list ought to have been put up by the employer in compliance with Rule 81 of the Industrial Disputes (Bombay) Rules. In his cross-examination, the witness for the Union conceded that he had no documentary evidence to show that the workers were directed to work on both the 6" Mill as well as the 10" Mill. He denied the suggestion that only contract workers were employed on the 6" Mill. The witness examined on behalf of the Company has denied the fact that the workmen were employed in both the Mills. However, besides denying this fact, the witness for the Company has not produced any documentary evidence on record to indicate that there was no interchangeability/transferability of the workmen employed on the two Mills or that none of the 36 workmen concerned in the Reference had ever worked in the 6" Mill. On scrutinizing the evidence on record it is apparent that the workmen

concerned in the reference did work in both the Rolling Mills i.e. the 6" Mill as well as the 10" Mill. The offer of re-employment in the 6" Mill is indicative of the fact that they worked in both the Mills, depending on the exigencies of work. Had they been employed only in one Mill the workmen would not have been offered re-employment in the other. Therefore, a seniority list of all the workmen ought to have been put up in compliance of Rule 81. Admittedly this has not been done.

19. In the case of Parry and Co. Ltd. Vs. P.C. Pal and Others, , the Supreme Court has held that if there was a bona fide reorganization of the business of an employer, which resulted in the retrenchment of labour, the Industrial Tribunal cannot question the propriety of such reorganization of the business and the consequent discharge of surplus labour. The Supreme Court has observed that this was because the employer is the best judge of how to restructure his business. This judgement does not in any manner suggest that the provisions of Section 25-G of the I.D. Act which are mandatory need not be followed. The employer must record reasons for not following the principle of "last come first go". In the present case the employer has admittedly, not done so because according to the Company the workmen were employed only in the 10" Mill and all of them had been terminated from service. The evidence, however, is to the contrary. Thus the Company has violated the mandatory provisions of Section 25-G and therefore the retrenchment is illegal.

20. The Industrial Tribunal in the present case has held that the retrenchment was, justified. It has held that the onus was on the workmen to prove that the retrenchment was invalid because it was not justifiable, This burden was not discharged by the Union or the workmen according to the Tribunal. The workmen have placed reliance on the correspondence between Ajinkya Electromelt and the Company to establish that the retrenchment was not justified. According to the Union, the correspondence showed that the entire production of Ajinkya Electromelt was utilized as raw material by the Company. It was further the contention of the Union that the Ajinkya Electromelt had deliberately not supplied raw material to the Company due to which the workmen were laid off initially and thereafter retrenched. Reliance was also placed on the clubbing report of the Regional Provident Fund Commissioner which indicated functional integrality between the Company and Ajinkya Electromelt.

21. In my opinion, merely because Ajinkya Electromelt supplied the raw material to the Company, it would not necessarily mean that the entire quantity of the raw material required by the Company was supplied by Ajinkya Electromelt. In fact, a chart produced by Ajinkya Electromelt on October 14, 1996 indicates that it was a supplier to various concerns, including the Company for the period from 1990-1991 to 1995-1996. It appears that no material was supplied to the Company in 1990-91 and 1991-92. The documentary evidence on record, as appreciated by the Industrial Tribunal, indicates that the supply of raw material had been released thereafter, but the Company in its wisdom decided to continue with the 6" Mill and not the 10" Mill. As held in Parry and Co. Ltd. v. P.C. Pal and

Others (supra) it is for the employer to decide how to reorganise its business. Therefore the decision of the Company to restart only the 6" mill cannot be questioned. However, in my opinion, there was no justification for retrenching these 13 workmen while retaining their juniors. The Company has failed to prove that it was necessary to depart from the principle of "last come, first go" or that the retrenched workmen were the junior most employees working in both the Mills. As mentioned earlier, there is sufficient evidence on record to indicate that the workmen worked not only on the 10" Mill but also on the 6" Mill.

22. In my opinion, therefore, the retrenchment is invalid. The Industrial Tribunal, unfortunately, has not considered the evidence indicating that the workmen worked in both the Rolling Mills. It has accepted the documents indicating that contract labour was engaged to work on the 6" Mill. However, there is no material on record to indicate that other workmen, besides the contract workmen, were not employed in the 6" Mill.

23. As the retrenchment itself was invalid, the question of offering re-employment does not arise.

24. Assuming the retrenchment is valid, as held by the Industrial Tribunal in Reference (IT) No. 27/1991, the question would be whether the Complaint (ULP) No. 873/1991 has been decided correctly. The workmen had been called upon to resume duty in the 6" Mill by the employer by issuing letters on February 4, 1991. Without prejudice to the pending conciliation proceedings, the workmen had reported for duty, as directed. There is evidence on record to indicate that the letter of January 19, 1991 was merely an empty formality indulged in by the Company. The workmen had reported for duty on February 4, 1991 without prejudice to their pending demand for reinstatement with continuity of service and full backwages. The contention of Ms. Doshi was that it was only if the workmen had accepted the retrenchment that the offer for re-employment could have been implemented. It was the case of the Company that it had retrenched the workers for lack of raw material. Therefore, when the Company wanted to restart the production in the Mill on the receipt of a fresh supply of raw material, the Company was duty bound to call upon the workmen who, according to it had been validly retrenched, to offer themselves for re-employment. The workmen had agreed to resume work without prejudice to their rights in the industrial dispute raised by them. Therefore the submission of Ms. Doshi is without merit. The Company had breached the provisions of Section 25-H of the I.D. Act by not permitting the workmen to resume work when the work was available and the Mill restarted. It is apparent that an unfair labour practice as envisaged under Item 9 of Schedule IV of the MRTU and PULP Act was committed by the Company. The Industrial Court, in my opinion, was right in declaring that the Company had committed an unfair labour practice under Item 9 of Schedule IV of the MRTU and PULP Act.

25. The Industrial Court has observed that time and again the Company avoided and deliberately refused to permit the workmen to resume duty despite the offer

contained in the letter dated January 19, 1991. It has held that the Company had compelled the workmen to remain unemployed after February 4, 1991. The Industrial Court believed the evidence of the workmen that they were able to secure some, temporary jobs either on a contract basis or on a "daily basis. In these circumstances, the Industrial Court has directed that instead of full backwages, the workmen concerned in the complaint were entitled to only 50% of the backwages.

26. An affidavit has been filed by Alok Devendrakumar Raniwala, the Director of the Company, in which he has averred that out of the 11 workmen, for whom the Reference and the complaint was prosecuted, 6 of them have settled their dispute with the Company. According to the affidavit (sic), only 5 workmen, namely, Bhanudas Huke, Vishwanath Ujagar, Prabhu Ujagar, Shivaji Sonawane and Omprakash Sharma have not settled the dispute.

27. In my opinion, the Industrial Court has not committed any error in directing payment of 50% of the backwages. However, as I have held that the retrenchment itself was bad the workmen would be entitled to reinstatement with continuity of service and wages. The Petition has been pending in this Court since 1997 and the direction to permit the workmen to resume duty was stayed unconditionally. It will, therefore, be necessary to ascertain whether, the aforesaid five workmen were gainfully employed after their services were illegally terminated in 1990.

28. The Reference (IT) no. 873/1991 is, therefore, remanded to the Industrial Tribunal, Pune to ascertain the wages payable to the workmen from, March 27, 1990. It is the case of the Company that its operations have been closed down both in the 6" Mill and in the 10" Mill from 2002. However, there is no material on record before me to accept this statement made on behalf of the Company. In fact, the affidavits filed in this Court in both the Petitions do not mention the date from which the 6" Mill had been closed. In my opinion, therefore, it would be necessary to remand the matter to the Industrial Court, Pune to ascertain whether in fact both the Mills were closed as contended by the Company.

29. In the event, the Industrial Tribunal, Pune finds that there was in fact a closure of the Mills, the Industrial Court, shall consider whether wages are payable to the workmen from the date of termination from service till the date of closure of the Mills. Since I have upheld the order of the Industrial Court in Compliant (ULP) No. 873/1991 the workmen would in any event be entitled to 50% of the back wages payable to them from February 4, 1991 till the date of the closure, if any.

30. The Industrial Court, Pune shall dispose of Reference (IT) No. 27/1991 within a period of six months from today.

31. Writ Petition No. 5548/1997 is dismissed. Rule discharged. Writ Petition No. 7251/1999 is allowed. Rule made absolute.

32. There shall be no orders as to costs.

33. Parties shall appear before the Tribunal on March 7, 2011. The Tribunal shall decide the two issues within six months from today. Ms. Doshi, appearing for the Company seeks a stay of this judgment. In my opinion, there is no need to grant a stay. Stay is accordingly refused.