

(2012) 01 MP CK 0113

In the Madhya Pradesh High Court

Case No : Writ Petition No. 15162 of 2008

M.P. Medical and Sales Representative Association and
another

APPELLANT

Vs

Senior General Manager, Camlin Ltd.

RESPONDENT

Date of Decision : 25-01-2012

Acts Referred:

Industrial Disputes Act, 1947 — Section 10, 10(1), 18, 2

Citation : (2012) 133 FLR 139 : (2012) ILR (MP) 1812 : (2012) 3 LLJ 857 :
(2012) 2 MPJR 188

Hon'ble Judges : K.K. Lahoti, J;J.K. Maheshwari, J

Bench : Division Bench

Advocate : Anoop Shrivastava, for the Appellant; Hemant Kumar and Anand Jain, for the Respondent

Final Decision : Allowed

Judgement

J.K. Maheshwari, J.—Assailing the award dated 26.4.2007 passed by the Labour Court-L Bhopal in Case No. 223/2003/ID Reference rejecting the same on the ground of jurisdiction, the M.P. Medical & Sales Representative Association has filed this petition. The facts in brief are that Apurva Sarkar was appointed as Sales Representative in the employment of the respondent on 3.4.1995. On account of his satisfactory performance, he was confirmed vide order dated 28.7.1996. The service of petitioner was terminated vide letter dated 7.4.2003, communicated on 12.4.2003 at Bhopal. The petitioner-union submitted a claim before the Dy. Labour Commissioner, Bhopal Division Bhopal which could not be settled, however dispute was referred for adjudication before the Labour Court, Bhopal. The respondent by filing the reply denied the allegations; of the statement of the claim and raised the preliminary objection that State of Madhya Pradesh is not the appropriate Government to refer the dispute and also that the Labour Court, Bhopal is having no jurisdiction to decide such dispute. It is said that the establishment of the respondent is at Mumbai and the salary of the petitioner was being paid from Mumbai and also as per the appointment order if

any dispute arises with employer the Mumbai Court would have jurisdiction to adjudicate it, however the Labour Court Bhopal is having no jurisdiction to decide the dispute as referred by the Government. By the order impugned said objection has been upheld giving rise to file this petition.

2. Shri Anoop Shrivastava, learned Counsel appearing on behalf of the petitioner contends that in the present case it is not in dispute that Apurva Sarkar was working at Bhopal throughout his service career. The termination order was passed at Mumbai but served at Bhopal, however the cause of action and part cause of action arose to petitioner at Bhopal. On submitting the application before Labour Commissioner, when the dispute could not be settled, it was referred to the Labour Court, Bhopal for adjudication by the State Government. However, the appropriate Government would be the State of Madhya Pradesh, who has rightly referred the dispute for adjudication by the Labour Court, Bhopal. In such circumstances rejection of dispute by the Labour Court Bhopal on the ground of jurisdiction is against the catena of judgments. He has placed reliance on the judgment of the Apex Court in the case of *Bikash Bhushan Ghosh and Others Vs. Novartis India Limited and Another*, and *Workmen of Shri Rangavilas Motors (P.) Ltd. and Another Vs. Shri Rangavilas Motors (P) Ltd. and Others*, In view of the foregoing it is prayed that the order passed by Labour Court rejecting the statement of claim for want of jurisdiction is liable to be set aside, and the dispute may be directed to be decided on merits.

3. Per contra, Shri Hemant Kumar with Shri Anand Jain, learned Counsel appearing on behalf of the respondent contends that the Labour Court has not committed any error in rejecting the statement of claim filed by the petitioner because the State of M.P. is not the appropriate Government to make the reference and the Labour Court Bhopal is also not having jurisdiction to decide such reference. To buttress the submission reliance has been placed on the judgment of the Apex Court in the case of *Lipton Limited and Another Vs. Their Employees, Association of Medical Representatives (M and V) Vs. The Industrial Tribunal and Others*, and *Balaji Coke Industry Pvt. Ltd. v. M/s. Maa Bhagwati Coke (Guj) (P.) Ltd.* 2010 (I) MPWN 39 In view of the aforesaid, it is urged that the order passed by the Labour Court may be maintained dismissing the present petition.

4. After having heard learned Counsel appearing on behalf of the parties and on perusal of the record, it is apparent that by passing the impugned award the statement of claim of the petitioner has been rejected referring the order of appointment wherein the place of adjudication of dispute has been shown as Mumbai city, relying upon the judgment of Apex Court in the case of *Association of Medical Representatives (M&V) (supra)* and *M/s. Lipton Ltd. (supra)*. However, the question for consideration is that the order passed by the Labour Court, Bhopal rejecting the reference on the ground of jurisdiction is in accordance to law. It is further required to be seen in the facts and circumstances of the case whether the State of Madhya Pradesh is an appropriate Government to refer the

dispute to the Labour Court, Bhopal or not.

5. The aforesaid questions relates to maintain the industrial dispute by the Labour Court, Bhopal in a case where the Head Office of the Company is situated" at Bombay but the place of employment of the petitioner is in Madhya Pradesh during the service tenure. The order of termination was passed by the Head Office, Mumbai but communicated at Bhopal, however in the said context the reference made by the State of Madhya Pradesh is also an integral part to rest the controversy.

6. Prior to considering the rival submissions of the parties, the legal position emerged on the said issues by various judgments of the Apex Court, this Court and other High Courts is required to be discussed. In the case of M/s. Lipton Ltd. (supra), three Judges Bench of the Apex Court has held as under:

8. Civil Appeal Nos. 713 and 714 of 1957. We now turn to the other two appeals, namely, Civil Appeals 713 and 714 of 1957. We have already stated that the only points which survive for decision are those relating to items 1(a), 1(b) and 4 of the terms of reference. These items relate to fixation of grades and scales of pay, whether retrospective effect should be given to the new scales of pay, and bonus for 1951. The other items of the award relating to City compensatory allowance, leave, holidays etc., have not been challenged before us. We are, therefore, saying nothing about those items of the award, which must necessarily stand. It may be made clear, however, at this stage that one off the points taken before the Industrial Tribunal on behalf of the Upton Ltd., was that the Industrial Tribunal had no jurisdiction to make an award in respect of employees of the Delhi office who were employed outside the State of Delhi. This point of jurisdiction was decided against the appellant and the Industrial Tribunal pointed out that all the workmen of the Delhi office, whether they worked in Delhi or not, received their salaries from the Delhi office; they were controlled from the Delhi office in the matter of leave, transfer, supervision etc. and, therefore, the Delhi State Government was the appropriate Government within the meaning of section 2 of the Industrial Disputes Act, 1947 relating to the dispute which arose between the Lipton Ltd., and the Union and u/s 18 of the said Act the award made by the Tribunal was binding on all persons employed in the Delhi office. The Appellate Tribunal upheld the decision of the Industrial Tribunal on this point and though this question of jurisdiction was raised in the appeals before us, it was not seriously pressed by the learned Attorney General. We are of the view that the Industrial Tribunal had jurisdiction to adjudicate on the dispute between the Lipton Ltd. and its workmen of the Delhi office.

7. In the case of The Management of Indian Cable Co., Ltd., Calcutta Vs. Its Workmen, having somewhat different facts to the present case, the issue came up for consideration wherein the Court has observed as under:

The Act contains no provisions bearing on this question, which must, consequently, be decided on the principles governing the jurisdiction of Courts to

entertain actions or proceedings, Dealing with a similar question under the provisions of the Bombay Industrial Relations Act, 1946, Chagla, C.J., observed in *Lalbhai Tricumlal Mills, Ltd. v. D.M. Vin and others*. 1956 (I) LLJ 557, 558

But what we are concerned with to decide is: where did the dispute substantially arise ? Now, the Act does not deal with the cause of action, nor does it indicate what factors will confer jurisdiction upon the Labour Court. But applying the well-known tests of jurisdiction, a Court or Tribunal would have jurisdiction if the parties reside within jurisdiction or if the subject-matter of the dispute substantially arises within jurisdiction.

In our opinion, these principles are applicable for deciding which of the States has jurisdiction to make a reference u/s 10 of the Act.

In the said case, the Court has not expressed any opinion on the point of competency of the Government making reference to the Court.

8. The Division Bench judgment of this Court in the case of *Association of Medical Representatives (M&V) (supra)* is based upon the judgment of Apex Court in the case of *M/s Lipton Ltd. (supra)*, wherein this Court held as under:

5. In our opinion, the Tribunal was right in concluding that the Madhya Pradesh Government was not the "appropriate Government" for making a reference u/s 10 (1) of the Act of the dispute regarding D"Silva"s termination of services. Now, section 10 (1) does not contain any express provision as to which is the appropriate State Government for referring an industrial dispute in relation to which the State Government is the "appropriate Government" as defined in section 2 (a) (ii) of the Act. The definition of "appropriate Government" given in section 2(a) is also not very helpful for determining the "appropriate State Government". But section 10 (1) does contemplate that the appropriate Government would be that Government in whose jurisdiction the industrial dispute arises or is apprehended when it says that "where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time, by order in writing " make a reference. The definitions of "Employer" and "Workman" given in sections 2 (g) and 2(s) show that an industrial dispute arises where the industry exists. In *The Management of Indian Cable Co., Ltd., Calcutta Vs. Its Workmen*, the Supreme Court noted that the Act contained no provision bearing on the question as to which of the States has jurisdiction u/s 10 (1) to make a reference and held, approving the observations of Chagla, C.J., in *Lalbhai Tricumlal Mills Ltd. v. D. M. Vin*, (1955-56) 9 FLR 290 : AIR 1955 Bom. 403 that in deciding which of the States has jurisdiction to make a reference u/s 10 of the Act "the well-known test of jurisdiction" should be applied; and that Court or Tribunal would have jurisdiction to entertain the reference within whose jurisdiction the parties reside or the subject-matter of the dispute substantially arises. This test only effectuates that which is contemplated by section 10 (1), namely, that it is the Government in whose jurisdiction the industry is situated that is competent to make a reference. Applying this test

here, there can be no doubt that the Madhya Pradesh Government had no jurisdiction to make the reference. The petitioner was no doubt residing in Madhya Pradesh. The residence of the parties necessary to give jurisdiction must be in relation to the existence of the industry. The Company was not carrying on business anywhere in Madhya Pradesh on the date of the reference. The dispute whether the Company was justified in dismissing D'Silva arose in Bombay inasmuch as the petitioner was employed by the Bombay office of the Company; he was paid by that office and his work was controlled and supervised by that office; and the dismissal order was also passed by the Bombay office.

6. The point of jurisdiction is really concluded by the decision of the Supreme Court in *Lipton Limited and Another Vs. Their Employees*, where it has been ruled that the Government of the State within which one of the offices of a Company is situated is the appropriate Government for referring any dispute between that Company and its workmen who are paid their salary and controlled by that office, irrespective of the fact that those workers work at a place which is outside the limits of that State. On this principle laid down by the Supreme Court in *Lipton Limited and Another Vs. Their Employees*, the Maharashtra Government was undoubtedly the appropriate Government for referring the dispute u/s 10 (1).

9. Thereafter similar issue as appeared in the present case came up for consideration before the Hon'ble Apex Court in the case of *Workmen of Shri Ranga Vilas Motors (P) Ltd. (supra)* and the Apex Court considering the observations made by the Constitutional Bench in the case of *Indian Cable Co. Ltd. (supra)* and also of *Lalbhai Tricumlal Mills Ltd. Vs. Manubhai Motilal Vin and Others*, and the observations of Shri Chagla, C.J., and concluded as under:-

14. Therefore, the appeal must succeed unless the Company can satisfy us that the points decided against it should have been decided in its favour. This takes us to the other points. Mr. O.P. Malhotra strongly urges that the State Government of Mysore was not the appropriate Government to make the reference. He says that although the dispute started at Bangalore, the resolution sponsoring this dispute was passed in Krishnagiri, and, that the proper test to be applied in the case of individual disputes is where the dispute has been sponsored. It seems to us that on the facts of this case it is clear that there was a separate establishment at Bangalore and Mahalingam was working there. There were a number of other workmen working in this place. The order of transfer, it is true, was made in Krishnagiri at the Head-office, but the order was to operate on a workman working in Bangalore. In our view the High Court was right in holding that the proper question to raise is : where did the dispute arise ? Ordinarily, if there is a separate establishment and the workman is working, in that establishment, the dispute would arise at that place. As the High Court observed, there should clearly be some nexus between the dispute and the territory of the State and not necessarily between the territory of the State and the industry concerning which the dispute arose. This Court in *The Management of Indian Cable Co., Ltd., Calcutta Vs. Its Workmen*, held as follows :

The Act contained no provisions bearing on this question, which must, consequently, be decided on the principles governing the jurisdiction of Courts to entertain actions or proceedings. Dealing with a similar question under the provisions of the Bombay Industrial Relations Act, 1946, Chagla, C. J., observed in *Lalbhai Tricumlal Mills Ltd. Vs. Manubhai Motilal Vin and Others*,

But what we are concerned with to decide is : where did the dispute substantially arise ? Now, the Act does not deal with the cause of action, nor does it indicate what factors will confer jurisdiction upon the Labour Court. But applying the well-known tests of jurisdiction, a Court or Tribunal would have jurisdiction if the parties reside within jurisdiction or if the subject-matter of the dispute substantially arises within jurisdiction.

In our opinion, those principles are applicable for deciding which of the States has jurisdiction to make a reference u/s 10 of the Act.

Applying the above principles to the facts of this case it is quite clear that the subject-matter of the dispute in this case substantially arose within the jurisdiction of the Mysore Government.

In the said case the Apex Court has upheld the judgment of the Bangalore High Court and Industrial Court deciding the issue of making a reference by the State of Mysore for decision by the Labour Court Bangalore. It is further held that as the workmen were discharging the duties at Bangalore and not at the place where the office of the company is situated in the State of Kerala, however the cause substantially arose within the jurisdiction of Mysore Government.

10. Thereafter the same issue has come up for consideration before the Division Bench of this Court in somewhat similar circumstances in the case of *S.N. Sunderson and Co., New Delhi v. Presiding Officer, Labour Court No. 2, Jabalpur* and another. 1973 Lab. I.C.991 This Court referring the judgment of *Workmen of Shri Ranga Vilas Motors (P) Ltd.* (supra) has held as under :

6. Applying the said tests to the facts of the present case we find that the dispute arose at Kami in Madhya Pradesh and no part of the dispute can be said to have arisen at Delhi where the Head Office of the petitioner-firm is located. We find that the present case is on all fours with the case of *Ram Kishan v. Shambhu Nath Vaid* (1962) 2 Lab LJ 294 (Punj) decided by a Division Bench of the Punjab High Court presided over by Khosla, C.J. and A.N. Grover, J. (as he then was). In that case the facts were that a workman was transferred from Amritsar to Mussoorie. He did not carry out the transfer order and, therefore, his services were dispensed with on the ground of disobedience. The industrial dispute about termination of service was taken up by fellow workmen at Amritsar and the Punjab Government referred the dispute for arbitration. It was contended on behalf of the employer that the appropriate Government was the Uttar Pradesh Government wherein Mussoorie was located to which place the employee had been transferred. A Single Bench of the Punjab High Court had taken the view that the appropriate Government was the Uttar Pradesh

Government. A Division Bench of the High Court, however, reversed that decision and held that the appropriate Government was the Punjab Government. In the present case, which is, as stated above, on all fours with the said Division Bench case of the Punjab High Court, it is clear that the dispute arose at Kami in Madhya Pradesh and the appropriate Government was the Madhya Pradesh Government. We would, therefore, reject the contention of learned Counsel for the petitioner and we are of opinion that the Labour Court at Jabalpur was right in overruling the preliminary objection raised on behalf of the petitioner before it.

11. The similar issue came up for consideration before the Full Bench of Patna High Court in the case of Paritosh Kumar Pal v. State of Bihar and others 1985 (50) FLR 213 (FB) and the Full Bench laid down a test to determine the issue of jurisdiction based on three principles which are as under:

- (i) Where does the order of the termination of services operate ?
- (ii) Is there some nexus between the industrial dispute arising from termination of the service of the workman and the territory of the State ?
- (iii) That the well-known test of jurisdiction of a Civil Court including the residence of the parties and the subject-matter of the dispute substantially arising therein would be applicable.

12. In the case of Bikash Bhushan Ghosh (supra), the same issue came up for consideration before the Apex Court wherein the issue regarding part of cause of action has also been discussed, however approving the said Full Bench Judgment of Patna High Court, and the judgment of M/s. Lipton Ltd. and another (supra) and Workmen of Shri Ranga Vilas Motors (P) Ltd. (supra), the Apex Court in paras 15 and 16 has held as under :

15. With respect to the Division Bench, we do not think that it has posed unto itself a correct question of law. It is not in dispute that the appellants did not join their duties at the transferred places. According to them, as the orders of transfer were illegal, their services were terminated for not complying therewith. The assertion of the respondent that the appellant were relieved from job was unilateral. If the orders of transfer were to be set aside, they would be deemed to be continuing to be posted in Calcutta. The legality of the orders of transfer, thus, had a direct nexus with the orders of termination. What would constitute cause of action, has recently been considered by this Court in Om Prakash Srivastava v. Union of India and another wherein it was held: (SCC pp.211-12, paras 12-14)

12. The expression "cause of action" has acquired a judicially settled meaning. In the restricted sense "cause of action" means the circumstances forming the infraction of the right or the immediate occasion for the reaction. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but also the infraction coupled with the right itself. Compendiously, as noted above, the expression means very fact,

which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove each fact, comprises in "cause of action". (See Rajasthan High Court Advocates Association Vs. Union of India and Others,

13. The expression "cause of action" has sometimes been employed to convey the restricted idea of facts or circumstances which constitute either the infringement or the basis of a right and no more. In a wider and more comprehensive sense, it has been used to denote the whole bundle of material facts, which a plaintiff must prove in order to succeed. These are all those essential facts without the proof of which the plaintiff must fail in his suit (See Gurdit Singh and Others Vs. Munsha Singh and Others,

14. The expression "cause of action" is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a Court or a Tribunal; a group of operative facts giving rise to one or more bases of suing; a factual situation that entitles one person to obtain a remedy in Court from another person (see Black's Law Dictionary). In Stroud's Judicial Dictionary a "cause of action" is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which if traversed, the plaintiff must prove in order to obtain judgment. In Words and Phrases (4th Edn.) the meaning attributed to the (sic) phrase "cause of action" in common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf. (See Navinchandra N. Majithia Vs. State of Maharashtra and Others,

16. Judged in that context also, a part of cause of action arose, in Calcutta in respect whereof, the State of West Bengal was the appropriate Government. It may be that in a given case, two States may have the requisite jurisdiction in terms of clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, Assuming that other State Governments had also jurisdiction, it would not mean that although a part of cause of action arose within the territory of the State of West Bengal, it would have no jurisdiction to make the reference.

13. In view of the foregoing, it is apparent that the Industrial Disputes Act, 1947 does not deal either the cause of action, nor does it remotely indicate what factors will confer jurisdiction upon the appropriate Government and equally to the Tribunal or the Labour Court constituted therein. However, the issue remains that where did the dispute substantially arises, to determine the issue of jurisdiction on the basis of well known principles. Simultaneously, equally acceptable principle is that the CPC in specific having no application in stricto sensu but the principle in values of the tests underline the jurisdiction of the Civil Court applies to determine the issue on principles as binding precedents. In this context to determine the jurisdiction, it is to be seen where the order of termination operates and what is the nexus to the industrial dispute by termination and the territory of the State referring the matter for adjudication.

As per the underlined principles of the Civil Courts the residence of the parties and subject-matter of the dispute substantially arises having its application pertaining to cause of action or a part of cause of action affecting the situs of employment of the workman. Before the Apex Court in the case of Workman of Shri Ranga Vilas Motors (P) Ltd. (supra) the employee was working at Bangalore and transferred to Krishnagiri (Kerala) where the office of the company was situated. The company framed the charges and removed the employee from service. In the said case Mysore Government has referred the dispute to the Labour Court Bangalore. The Apex Court answered the question of jurisdiction and held that the State of Mysore is the appropriate Government to refer the dispute because the situs of the employment of the said employee is at Bangalore applying the principles for determination of the jurisdiction of the Civil Court. The said judgment has been followed by the Division Bench of this Court in the case of S.N. Sunderson and Co., New Delhi (supra) wherein also the Head Office of the company was situated in Delhi and the employee was working at Kami in Madhya Pradesh. The reference made by the State of Madhya Pradesh for determination by the Labour Court Jabalpur was found valid. In the said case also the judgment of Division Bench of this Court in the case of Association of Medical Representatives (supra) has been considered but not followed in the light of the subsequent judgment of the Apex Court in the case of Workman of Shri Ranga Vilas Motors (P) Ltd. (supra), holding that the reference has rightly been made by the State of Madhya Pradesh. The Apex Court has again in the case of Bikash Bhushan Ghosh (supra) had an occasion to consider the issue of cause of action or a part of cause of action and in the said judgment the principles so laid down for determination of the issue of jurisdiction by the Full Bench of Patna High Court in the case of Paritosh Kumar Pal (supra) is liable to affirm. In the said judgment the Apex Court has considered the case of M/s Lipton Ltd. (supra) and subsequent judgment of the Apex Court in the case of Workman of Shri Ranga Vilas Motors (P) Ltd. (supra). However, the Division Bench judgment of this Court in the case of Association of Medical Representatives (supra) based upon M/s. Lipton Ltd. (supra) has been expressly in contravention to the principles laid down in the case of Workman of Shri Ranga Vilas Motors (P) Ltd. (supra). The judgment in the case of Workman of Shri Ranga Vilas Motors (P) Ltd. (supra) has been affirmed by the Division Bench of this Court in the case of S.N. Sunderson and Co., New Delhi (supra). It is to be observed that in the judgment of Bikash Bhushan Ghosh (supra), the judgments relied upon by learned Counsel for the respondents has been considered by the Apex Court while taking different view and observed that the order impugned is having a direct nexus to the place where it operates. It has further been observed that on account of termination the industrial dispute arose must have nexus to the territory of the State. The cause of action and part cause of action arose to an employee must be decided on the basis of the principles of CPC expressly laying down the parameters for determination of the jurisdiction of the dispute so involved in the case.

14. In view of the foregoing discussions and in the facts of the present case, it is not in dispute that petitioner Apurva Sarkar" was appointed as Sales Representative by an order of the Head Office situated at Bombay but he had discharged his duties throughout at Bhopal. His services were terminated as per letter dated 7.4.2003 with" effect from 31.3.2003. The said letter was communicated on 12.4.2003 at Bhopal. If the order of termination is set aside, he is required to be reinstated in Madhya Pradesh, Bhopal from where his services were terminated. Thus the situs of the employment of the petitioner was at Bhopal in State of M.P. He had submitted the application before the Dy. Labour Commissioner where the claim was resisted by the respondent, however the State of Madhya Pradesh has rightly made a reference to the Labour Court, Bhopal to decide the dispute whether the termination of the petitioner is in accordance to law and what relief"s can be granted in the facts of the case. Thus the working of the petitioner at Bhopal is having nexus with the dispute related to termination of the service of workman. The petitioner is the resident of Madhya Pradesh, however the territory of the State having nexus with the residence as well as to the dispute. Merely having office at Bombay would not debar the State of Madhya Pradesh to make a reference and expelling from jurisdiction to the Labour Court, Bhopal established under the Industrial Disputes Act to adjudicate the issue. Thus the order passed by the Labour Court (Annexure P/I) to dismiss the reference on the ground of jurisdiction is contrary to the principles of law laid down by the Apex Court in the case of Workman of Shri Ranga Vilas Motors (P) Ltd. (supra) and Bikash Bhushan Ghosh (supra) and the Division Bench judgment of this Court in the case of S.N. Sunderson and Co., New Delhi (supra).

15. Now the issue raised by the respondent on the basis of the appointment letter which confers jurisdiction to the Bombay Court is also required to be dealt with. On the said issue the judgment of the Apex Court in the case of Balaji Coke Industry Pvt. Ltd. (supra) has been relied upon by the respondent. In the said context it is to be observed here that the order of appointment has been issued unilaterally by the employer specifying the place of jurisdiction. The said judgment of the Apex Court is based on a bi-lateral contract of arbitration conferring the jurisdiction at a particular Court. More so, the said, judgment relates to arbitration agreement which is always by-lateral but in case of employees the orders of appointment are issued by the employer unilaterally. Thus the said unilateral order of appointment would not confer jurisdiction to the Bombay Court, and the argument so advanced by the respondent is hereby repelled. Accordingly, the petition filed by the petitioner is hereby allowed. The impugned order (Annexure P/I) passed by the Labour Court, Bhopal is hereby set aside. The matter is remitted back to the Labour Court to decide the dispute on merit after affording the opportunity of hearing to the parties in accordance with law. In the facts and circumstances of the case, parties are directed to bear their own costs.