

(1952) 09 BOM CK 0008

In the Bombay High Court

Case No : O.C.J. Miscellaneous Application No. 215 of 1952

Narendra Kumar Sen and Others

APPELLANT

Vs

All India Industrial Disputes (Labour Appellate) Tribunal and
Others

RESPONDENT

Date of Decision : 24-09-1952

Acts Referred:

Industrial Disputes (Appellate Tribunal) Act, 1950 — Section 7
Industrial Disputes Act, 1947 — Section 15, 2

Citation : AIR 1953 Bom 325 : (1953) 55 BOMLR 125 : (1954) ILR (Bom) 260 :
(1953) 2 LLJ 6

Hon'ble Judges : Chagla, C.J.;Shah, J

Bench : Division Bench

Advocate : K.T. Desai, D.H. Buch and C.L. Duhia, for the Appellant; Jamshedji Kanga, Y.B. Rege and R.J. Joshi, for the Respondent

Judgement

Chagla, C.J.

(1) This is a petition challenging two decisions of the Labour Appellate Tribunal on the ground that they had failed to exercise jurisdiction rested in the Tribunal under the law. Petitioner; Nos. 1, 2, 4 and 5 are the employees of the second respondent company, and petitioner No. 3 was up to October 1951 also in the employment of the second respondent company. It appears that some of the employees of the Ford Motor Co. have formed a union to protect their interests, and the petition is filed by the five petitioners on behalf of themselves and all other workmen employed by the second respondent company. This union raised an industrial dispute in 1946. It was referred to the Industrial Tribunal and the Tribunal which consisted of Mr. Kamerkar gave its award on 5-5-1913, and the award lasted till 16-5-1949. There was another dispute between the workmen of the Ford Motor Co. and the company again in September 1949 and it was referred to the Industrial Tribunal by Government u/s 10(ii) of the Industrial Disputes Act on 29-9-1949, and the award in this dispute was given on 20-1-1951. There was an appeal from this award and the Appellate Tribunal

confirmed the award on 3-7-1951. There was a third dispute which was referred to the Industrial Tribunal by Government on 16-8-1950. In this dispute the award was given on 25-10-1951. An appeal was preferred from this award and the Appellate Court gave its decision on 29-5-1952.

(2) The main question which arises on this petition is whether the Labour Tribunal has the jurisdiction to adjudicate with regard to the scales of pay and the right of bonus of employees of the second respondent company who are not workmen of the company within the meaning of the Industrial Disputes Act, In other, words, the question for our consideration is whether it is competent to the workmen of the second respondent company to raise a dispute with regard to payment of wages and bonus, not to themselves, but to other employees of the company, and having raised such a dispute whether it is competent to the Labour Tribunal to adjudicate upon such a dispute, when the matter was before Mr. Karkerkar as the Industrial Tribunal, he held that foremen and divisional heads of the second respondent company did not fall in the category of workmen as defined by the Act. When the second dispute with regard to this company was referred to Mr. Bakhle, the demands made by the workmen included a demand for fixing the scales of pay for foremen and divisional heads, and Mr. Bakhle in his award held that foremen and divisional heads belonged to the supervisory category and would not be within the scope of his award. When an appeal was preferred to the Appellate Tribunal from this award, the Appellate Tribunal upheld the decision of the lower Tribunal on the ground that Mr. Karkerkar had taken the same view with regard to the status of divisional heads and foremen by his award dated 5-5-1948, and it was not advisable that this matter should be reviewed or revised within such a short time, and when the award was made on 5-10-1951, one of the matters which the workmen wanted the Tribunal to adjudicate upon was the question of bonus and they put forward the claim for bonus not only on behalf of workmen but also on behalf of foremen and divisional heads. The Industrial Tribunal excluded divisional heads and foremen from the benefit of the award with regard to bonus which was conferred upon other workmen, and when the matter went to the Appellate Tribunal, the Appellate Tribunal upheld the decision of the Industrial Tribunal and expressed the opinion that it had no jurisdiction to adjudicate upon the claims of foremen and divisional heads.

(3) The contention of Mr. Desai is that it was competent to the workmen of the second respondent company even as defined by the Act to raise a dispute with regard to the claims of foremen and divisional heads, and that once a dispute was raised, it was incumbent upon the Labour Tribunals to adjudicate upon the dispute, and In failing to consider whether the divisional heads and the foremen were entitled to the various benefits conferred under the awards upon other workmen, the Labour Tribunals had failed to exercise the jurisdiction vested in them under the Act. Now, the Jurisdiction of the Tribunal to adjudicate flows from Section 15 of the Industrial Disputes Act of 1947. It is only when an Industrial dispute has been referred to a Tribunal that the Tribunal has the authority to

adjudicate upon it. Therefore, the jurisdiction of the Tribunal depends upon an industrial dispute being referred to it. An "industrial dispute" is defined in the Act as any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person; and the question that we have to consider in this petition is whether a dispute with regard to the terms of employment of any person, whether he is a workman or not, is an industrial dispute which can be referred to the Tribunal by Government u/s 10 and which could be adjudicated upon by the Tribunal u/s 15.

(4) A "workman" is defined by Section 2(s) as any person employed (including an apprentice) in any industry to do any skilled or unskilled manual or clerical work for hire or reward. The latter part of the definition is not relevant for the purpose of this argument. Therefore, if a person does manual or clerical work, whether that work is skilled or unskilled, and if he does it for hire or reward, he is a workman within the meaning of this Act. For the purpose of this argument Mr. Desai is prepared to assume that a foreman or a divisional head is not a workman, and Mr. Desai's contention is that even so a dispute with regard to the terms of employment of a person who is not a workman can still constitute an industrial dispute within the meaning of the Act.

Mr. Desai pointedly draws attention to the language used by the Legislature and the difference sought to be made between a workman and any person, and Mr. Desai says that whereas parties to the dispute must be either employers and employers or employers and workmen or workmen and workmen, as far as the subject-matter of the dispute is concerned, it can be the employment or non-employment or the terms of employment or the conditions of labour of any person; the Legislature has advisedly not restricted the subject matter of the dispute to the rights only of workmen but of any person whatsoever, and Mr. Desai asks us not to place any restrictions or qualifications on the expression "any person" which the Legislature itself has not thought fit to do. If we were to accept Mr. Desai's argument in its totality, it would lead to most extraordinary and startling results. If "any person" were to be read as an expression without any limitation and qualification whatsoever, then we must not put even any territorial restriction on that expression. In other words, it would be open to the workmen not only to raise a dispute with regard to the terms of employment of persons employed in the same industry as themselves, not only to raise a dispute with regard to the terms of employment in corresponding or similar industries, not only a dispute with regard to the terms of employment of people employed in our country, but the terms of employment of any workman or any labourer anywhere in the world. The proposition has only to be stated in order to make one realise how entirely untenable it is. Therefore, it is clear that some restriction or some limitation has to be placed upon the expression "any person", and the question is what is the proper limitation that must be put upon that expression, and in order to decide that we must look at the expression "any

person" as it appears In its own context; "any person" cannot be construed wrenched from its own context or divorced from its own context. It must be read in the light of the whole definition of "industrial dispute" given in Section 2(k).

(5) Now, in order that a controversy between workmen & employers can become an industrial dispute, two conditions are necessary. It must be a dispute and it must be an Industrial dispute. There is no difficulty in understanding what "Industrial dispute" is because it is clearly defined in Section 2(k). A controversy which is connected with the employment or non-employment or the terms of employment or with the conditions of labour is an industrial controversy. But it is not enough that it should be an industrial controversy; It must be a dispute; and in my opinion it is not every controversy or every difference of opinion between workmen and employers which is constituted a dispute or difference within the meaning of Section 2(k). A workman may have Ideological differences with his employer; a workman may feel sympathetic consideration for an employee in his own industry or in other industry; a workman may feel seriously agitated about the conditions of labour outside our own country; but It is absurd to suggest that any of these factors would entitle a workman to raise an industrial dispute within the meaning of Section 2(k). The dispute contemplated by Section 2(k) is a controversy in which the workman is directly and substantially interested. It must also be a grievance felt by the workman which the employer is in a position to remedy. Both the conditions must be present; it must be a grievance of the workman himself; it must be a grievance which the employer as an employer is in a position to remedy or set right.

(6) The matter may be looked at from a different point of view. The Industrial Disputes Act was enacted, as Mr. Desai rightly says, to bring about industrial peace in the country, to avoid conflicts between employers and labourers, to prevent strikes and lock-outs, to see that the production in our country does not suffer by reason of constant and continuous labour troubles. For that purpose the Act confers important rights upon workmen and also imposes serious liabilities upon employers. The workmen have been given the right of collective bargaining with regard to various matters in which they are interested; their terms of service, their pay, their bonus, etc. Equally so the Act interferes with the employer's freedom to contract. It is no longer open to the employer in certain cases to allow free play to contractual rights and liabilities. He cannot pay what he likes to his employee; he cannot dismiss him when he wants to; and similar other limitations. But the limitation placed upon the employer is not with regard to all his employees. The limitation is confined to a limited class of his employees, and that limited class is constituted by the expression "workman" used in the Act. It is only when he is dealing with skilled or unskilled manual or clerical workers that his right to act as he pleases and to allow free play to contractual rights and liabilities is limited and restricted, but outside that class of workmen the Act imposes no liability upon the employer.

(7) Now, if we were to accept Mr. Desai's interpretation of the expression

"industrial dispute" and particularly of "any person", it would mean this that the workmen upon whom rights have been conferred by the Act can dictate to the employer to confer certain benefits upon his employees who do not fall in the category of workmen. In other words, the distinction advisedly made in the Act between workmen and non-workmen would be totally eliminated. Further, another curious result of Mr. Desai's argument would be that although the non-workmen or persons not falling in the category of workmen as defined by the Act could not themselves raise any dispute and make it an industrial dispute and have it adjudicated upon, they could yet have their rights determined vicariously through the agency of some other parties. That again is an interpretation which seems to be totally inconsistent with the scheme of the Act, because the award that is given by the Tribunal and which is made binding is an award which can only be made binding upon the parties to that award, and it is difficult to hold that although persons who are not workmen cannot be parties to a dispute, yet the employers can be bound as against them by the Tribunal adjudicating upon their rights. Therefore, when Section 2(k) speaks of the employment or non-employment or the terms of employment or the conditions of labour of any person, it can only mean the employment or non-employment or the terms of employment or the conditions of labour of only those persons in the employment or non-employment or the terms of employment or with the conditions of labour of whom the workmen themselves are directly and substantially interested. If the workmen have no direct or substantial interest in the employment or non-employment of a person or in his term of employment or his conditions of labour, then an industrial dispute cannot arise with regard to such person. It is clear that in this particular case it cannot be said that the workmen of the second respondent company are interested in the scales of pay of, or the bonus to be given to, divisional heads and foremen. They may strongly feel about the rights of these employees, they may have strong sympathy for their claims, they may even be oppressed by a sense of injustice, but these are all considerations foreign to the object of the Act. It is only primarily in their own employment, in their own terms of employment, in their own conditions of labour that workmen are interested and it is with regard to these that they are entitled to agitate by means of raising an industrial dispute and getting it referred to a Tribunal by Government u/s 10.

(8) Mr. Desai has relied on a decision of the Federal Court reported in -- "Western India A.A. v. Industrial Tribunal, Bombay", AIR 1919 FC 111 (A). The only question that the Federal Court, with respect, was called upon to decide was whether the question of the reinstatement of a dismissed servant could form the subject-matter of an industrial dispute within the meaning of Section 2(k). It is pertinent to note that these workmen were dismissed after the dispute had started between the workmen and the employers, and the definition of "workman" u/s 2(s) includes a workman discharged during an industrial dispute. The finding of this Court, from which the appeal was preferred to the Federal Court, was that the workmen whose reinstatement was in question although

discharged were workmen within the definition of the Act, and therefore the dispute was directly between workmen and their employers with regard to their own employment. The Federal Court was, therefore, not called upon to decide, nor did it decide, the question which we have to consider in this petition.

(9) Mr. Desai has also relied on a decision of the Calcutta High Court in -- "Birla Brothers Ltd. v. Modak", ILR (1948) Cal 209 (B). In that case Birla Brothers had dispensed with the services of four employees and had transferred an employee from Calcutta to Budge Budge, and the case of the trade union of the workers of Birla Brothers was that these were acts of victimisation as the employees concerned were permanent members of the union, and the question was whether this complaint of the workmen could constitute the subject-matter of an industrial dispute. The learned Chief Justice at p. 220 points out that the dismissal of these workmen was the main cause of the dispute and the dispute was with the whole body of workmen and not only with the workmen who were actually dismissed, and according to the learned Chief Justice that being so, it was quite clear that there was an industrial dispute between Birla Brothers and the trade union representing the workmen. Therefore, the view taken by the learned Chief Justice clearly was that in the dismissal of the workmen all the workmen were directly and substantially interested because it was a question of victimization and that affected the whole trade union movement. But, further, the learned Judge from whose judgment this appeal was preferred, Mr. Justice Sen, as a matter of fact took the view that these workmen were dismissed during the dispute and therefore they fell within the definition of "workman" in Section 2(s).

(10) I am, therefore, of the opinion that both the Industrial Tribunals and also the Labour Appellate Tribunal were right in taking the view that they had no jurisdiction to adjudicate upon the question to pay scales and the right to bonus of the employees of the second respondent company who were not workmen within the meaning of the Act.

(11) The other question raised by Mr. Desai is that the Appellate Tribunal has failed to exercise its jurisdiction to determine whether in fact divisional heads and foremen are or are not workmen within the meaning of the Act. The petitioners led a large volume of evidence before the Industrial Tribunal to prove that foremen and divisional heads did clerical work and therefore they fell within the definition. On this evidence the Tribunal came to the conclusion as a question of fact that they were not workmen but they exercised supervisory functions and not clerical functions. Now, the jurisdiction of the Appellate Tribunal is to be found in Section 7 of Act 48 of 1950 and under that section an appeal shall lie to the Appellate Tribunal if (a) the appeal involves a substantial question of law, or (b) the award or decision is in respect of any of the following matters, namely, wages, bonus or traveling allowance, and other matters which it is not necessary to refer to in this connection. Therefore, this was an appeal with regard to the wages and bonus of divisional heads and foremen and it was incumbent upon the Tribunal to decide this appeal on the materials placed before it. What the

Appellate Tribunal has done is, it has upheld the decision of the Industrial Tribunal solely on the ground that Mr. Kamerkar in his earlier decision had taken the view that foremen and divisional heads were not workmen and that it would be highly undesirable if the very same question was allowed to be reagitated so soon after and is decided in a different way. The Appellate Tribunal did not consider the evidence led by the petitioners, did not apply its mind to it at all and never considered whether the decision of the Industrial Tribunal on a question of fact was or was not a proper decision. In substance the Appellate Tribunal refused to hear the appeal at all on that question of fact and merely contented itself by upholding the decision of Mr. Kamerkar. Now, when a Tribunal is constituted an Appellate Tribunal on a question of fact, its duty is to assess and appreciate the evidence led in the lower Court or tribunal and come to its own decision on the question of fact. It may accept the decision arrived at by the lower tribunal or it may reverse it, but the decision must be its own decision. It cannot adopt the decision of some other authority or be solely guided by what the lower tribunal had done. In this case the Appellate Tribunal, if we might say so with respect, has abdicated its function in favour of Mr. Kamerkar's view. In my opinion that was not the correct way of exercising the jurisdiction conferred upon it by statute. It would not be proper for us to remand this matter to the Tribunal on a petition for a writ. Therefore, what we propose to do is to quash the two orders made by the Labour Appellate Tribunal dated 3-7-1951, and 29-5-1952.

(12) We, therefore, quash the two orders; passed by the Appellate Tribunal.

Shah, J.

(13) I agree.

(14) Three questions have been argued in this Court by counsel for the petitioners: (1) Whether the 17 employees of the second respondent company who were not given the benefit of a graded scale of pay and bonus were workmen within the meaning of Section 2(s), Industrial Disputes Act of 1947. (2) Whether the employees of the second respondent company who were employed for supervising and doing work of a similar nature were workmen within the meaning of Section 2(s) of the Act. (3) Whether an industrial dispute concerning the remuneration to be paid to employees other than workmen can be raised by workmen of the second respondent company. The arguments of counsel for the petitioners centered upon the definition of "workman" given in Section 2(s) of the Act and of the expression "Industrial dispute" as given in Section 2(k) of the Act.

(15) I propose to deal with the third point first, viz. whether it is open to workmen of the second respondent company in this petition to raise an industrial dispute with regard to remuneration, to be paid not to themselves but to other employees of the second respondent company who are not workmen within the definition of Section 2(s). Now, the definition of "workman" as given in the Act is:

" "workman" means any person employed (including as apprentice) in any

industry to do any skilled or unskilled manual or clerical work for hire or reward and includes, for the purposes of any proceedings under this Act in relation to an industrial dispute, a workman discharged during that dispute, but does not include any person employed in the naval, military or air service of the Crown."

(16) In effect the definition, excepting that it excludes persons employed in the naval, military and air service of the State, includes all persons who are employed in any industry to do skilled and unskilled work, which is of a manual or clerical character, the workers being hired for work or are rewarded for work. The definition also includes persons who being workmen have since the commencement of any industrial dispute been discharged from employment. The expression "industrial dispute" is defined as meaning any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the term-; of employment or with the conditions of labour, of any person. It was argued that the Legislature has included in the definition of the expression "industrial dispute" all disputes provided they are connected with the employment or non-employment or the terms of employment or the conditions of labour of "any person", and arise between employers and employers or between employers and workmen or between workmen and workmen, and that the workmen of the second respondent Company were entitled to raise an industrial dispute concerning the remuneration to be paid not only to themselves but to other employees also who were not workmen, and to have the same adjudicated by the Tribunal. It is true that the Legislature has used the expression "any person" and has not stated "hat the dispute must be connected with the employment or non-employment or the terms of employment or the conditions of labour only of workmen. It cannot, therefore, be denied that a, dispute may be regarded as an "industrial dispute" if it is connected with the terms of employment or the conditions of labour, not only of workmen, but of persons other than workmen. Does that view however justify the contention that every controversy between employers and employers, or employers and workmen or workmen and workmen and connected With the employment or non-employment or the terms of employment or the conditions of employment of persons other than workmen--wherever such persons may be and wherever they may be employed--is an industrial dispute?

(17) Counsel for the petitioners was not prepared to contend, as obviously he could not contend, that the expression "any person" as used in Section 2(k) would include all persons wherever employed or whatever the nature of their employment. Counsel suggested that the connotation of the expression "any person" must in its context be limited to mean a person employed in the same industry as the industry in which the workmen who raise a dispute are employed or in a similar industry in the country. It is difficult to understand what indication there is in the definition which would Justify that limitation. It is undoubted that the expression "any person" can only mean ail employee and not employer. That is, however, the only limitation which the context warrants. A controversy

connected with the employment or non-employment or conditions of labour of a person not employed in the same or similar industry, as the workmen raising the dispute, is according to the definition an industrial dispute. When it is realised that the dispute according to the definition may arise between employers and employers who may be interested in different industries, the least suggested would be wholly incongruous. It is true that the Legislature by using the expression "any person" has used an expression of a wider connotation than workmen; but in my view, the use of the expression "any person" is not decisive of the question whether all industrial controversies may form the subject-matter of dispute before Industrial Tribunals under the Act. In my view the key words of the definition are "'dispute or difference". The expression "'dispute or difference", as I will presently show from the scheme of the Act, is not intended to include mere metaphysical or philosophical controversies between employers, and workmen or between employers themselves or between workmen and workmen. The expression "dispute or difference" as used in the Act must in my view mean a controversy which is fairly definite and of real substance and being connected with the employment or non-employment or the terms of employment or with the conditions of labour is one in which the contesting parties are directly and substantially interested in maintaining. If that connotation is adopted then in my view it would exclude all theoretical, metaphysical or philosophical controversies. It would also exclude mere ideological contests or differences, and would bring within the definition only those disputes in which the contestants are seeking to raise definite disputes of substance in which both the parties are themselves directly and substantially interested.

(18) Now, the Act has been passed, as the preamble mentions, for the investigation and settlement of industrial disputes and for certain other purposes. It cannot be gainsaid that the Act was intended to provide for a peaceful working of the industries in the State. u/s 10 of the Act it is open to the appropriate Government to refer any industrial dispute for settlement to the Industrial Tribunal constituted under the Act, and the Tribunal is by Section 15 entitled to adjudicate upon that dispute. Upon adjudication of a dispute by the Tribunal an award is required to be made; and on a report of the award being made to the appropriate Government, the Government is authorised to publish that award, which on publication becomes binding upon the parties thereto and upon the parties who have been summoned to appear before the Tribunal, as parties, and upon other workmen who may subsequently join the establishment in which the workmen are employed. Failure to carry out the directions of the scheme renders the defaulting party liable to penalties provided in Section 29. Again by Section 20 of Act 48 of 1950 awards are made specifically enforceable by the appropriate Government. The scheme of the Act therefore appears to provide for settlement of industrial disputes by adjudication under an orderly procedure before independent tribunals, of rights and obligations of contesting parties. It is clear from the scheme of the Act that the Legislature intended that only those questions which directly affected the rights and obligations of the contesting

parties should be made the subject-matter of adjudication with the object of crystallising those rights and obligations, and enforcement thereof. The conclusion, therefore, is inevitable that even though the claim asserted by one party and sought to be resisted by another may relate to the employment or non-employment or terms of employment or conditions of labour, the contesting parties must have a direct and substantial interest in the claim made and rested, so that upon adjudication thereupon, there may result an award capable of enforcement for the benefit of the parties thereto.

(19) Counsel for the petitioners submitted that even if the test of interest of the contesting parties in the subject-matter be adopted, the order of the Tribunal which fails to award the reliefs claimed discloses an error apparent on the face of the record, it was suggested that even if the 17 workmen are merely on the supervisory staff and are not doing any manual or clerical work of a skilled or unskilled nature and therefore may not be regarded as workmen within the meaning of the Act, the other labourers or workmen who are employed by the second respondent company might expect sometime in future to occupy the posts occupied by these 17 workmen and to that extent the workmen were interested in the dispute. If, as I said, the dispute must be a dispute in which, the workmen are directly and substantially interested, the mere fact that the contesting workmen or some of them may expect to be appointed and the possibility that in future they may be appointed to supervisory posts, the occupants whereof are not included in the definition of "workman", would not make their interest so direct and substantial as to make the contest which they are now seeking to raise relating to the remuneration to be paid to the supervisory staff, an industrial dispute within the meaning of the definition. It was also urged that the Act having been enacted with a view to provide for a peaceful working of the industry and the sole idea of making various provisions of the Act being to ensure peace in the industrial undertaking, the fact that other employees of an industrial undertaking are not given the same benefits which the workmen are given may give rise to discontent among those employees who have not been given the benefit, provided for the workmen and as a consequence of which the harmonious working of industrial undertaking may be impaired. The argument in my view is one which seeks to take into consideration not any interest which is directly and substantially of the workmen, but by some process of ratiocination an interest of persons other than workmen and of a peaceful working of the industrial establishments based on disputable hypotheses. If what is postulated is a direct and substantial interest of the workmen themselves and not of others, then this argument must also fail.

(20) Then it was suggested that if a dispute was not an industrial dispute, the appropriate Government would not refer that dispute to the Tribunal; and the present dispute having been referred by the appropriate Government to the Tribunal, it must be regarded as an industrial dispute. But it is obvious from the terms of Section 151 of the Act that what the Tribunal is entitled to or is authorised to decide or adjudicate upon is merely "an industrial dispute", and if a

dispute cannot reasonably be regarded an industrial dispute the mere fact that it is referred by the appropriate Government to the Tribunal would not make it an industrial dispute liable to be adjudicated upon by the Tribunal by reason of its being referred.

(21) Referring to the second question whether the 17 employees could be regarded as workmen within the meaning of the Act, it is apparent from the definition of the expression "workman" which I have referred to earlier that the persons employed must be skilled or unskilled employees doing manual or clerical work for hire or reward. If, however, the work which is required to be done by these 17 employees is exclusively of a supervisory character and not manual or clerical, then they cannot be regarded as workmen within the meaning of the definition. It has been contended that even in their supervisory character these 17 employees were required to do work which was manual or clerical in character and as such they conformed to the definition of the expression "workman", and the Appellate Tribunal was in error in refusing to consider the evidence which was led before the Labour Tribunal and in refusing to decide the question whether they were in fact workmen within the meaning of the Act. My Lord the Chief Justice has dealt with the question whether the Appellate Tribunal should have dealt with the evidence and in not having dealt with the matter whether the order is liable to be interfered with; and I do not propose to add anything to what has been stated by my Lord the Chief Justice on that point. I agree, therefore, with the order proposed.

Curiam

(22) No order as to costs of all the parties.

(23) Orders quashed.