
(2002) 09 AP CK 0075

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 28776 of 1997 and 19426 of 1999

Siemens Ltd.

APPELLANT

Vs

Presiding Officer, Additional Industrial Tribunal-cum-
Additional Labour Court and Another

RESPONDENT

Date of Decision : 16-09-2002

Acts Referred:

Industrial Disputes Act, 1947 — Section 2A, 2A(2)

Citation : (2002) 6 ALD 492 : (2002) 6 ALT 446 : (2003) 96 FLR 819

Hon'ble Judges : D.S.R. Varma, J

Bench : Single Bench

Advocate : C.R. Sridharan, in WP No. 28776 of 1997 and Party in person in WP No. 19426 of 1999, for the Appellant; Government Pleader for Labour for Respondent No. 1 in WP Nos. 28776 of 1997 and 19426 of 1999 and Party in person in W.P. No. 19426 of 1999, for the Respondent

Judgement

D.S.R. Varma, J.—Since both the writ petitions are filed challenging the Award passed by the Labour Court dated 4.8.1997 in ID No. 15 of 1996, I am disposing of by this common order.

2. W.P. No. 28776/1997 is filed by Siemens Limited i.e., the Management, aggrieved by the Award of the Tribunal in entertaining the I.D., even though it has no territorial jurisdiction and further ordering reinstatement while holding the workman guilty.

3. WP No. 19426/1999 is filed by the workman aggrieved by the Award of the Tribunal in denying the back wages.

4. For the sake of convenience, the parties shall be referred to as "the Workman" and "the Management".

5. The brief facts are that the workman joined as Service Engineer in the respondent-Management on 13.9.1971 and his services were later confirmed on 8.10.1973. Transferability was one of the service conditions. He was transferred

from one place to another on different occasions, but he never disputed those transfers and obeyed them. While so, the workman was transferred to Manipal from Hyderabad branch through proceedings dated 19.9.1994. In the said transfer order it was indicated that with effect from 3.10.1994 the services of the workman shall stand transferred to Manipal office. Since the workman refused to go to the new place and has been trying to attend the office at Hyderabad, the Management issued letter dated 6.10.1994 informing him that he ceased to have any link with Hyderabad office with effect from 3.10.1994. On the ground that he is being prevented from attending the office at Hyderabad by virtue of the orders dated 6.10.1994, the workman filed O.S. No. 519/ 1994 and in that he filed I.A. No. 1373/1994 seeking temporary injunction, on the file of the IX Assistant Judge, City Civil Court, Hyderabad. By order dated 20.12.1994 the interim injunction petition as well as the suit were dismissed by the trial Court on the ground that it has no jurisdiction and returned the plaint for presentation before the proper Court. Challenging the order of the trial Court, the workman filed a revision before this Court in C.R.P. No. 5329/1994. This Court by order dated 30.12.1994 dismissed the revision. Again challenging the order of the trial Court dated 20.12.1994 passed in I.A. No. 1373/1994 in O.S. No. 519/ 1994, the workman filed an appeal before the lower appellate Court in CMA No. 19 of 1995 and the same also by judgment and decree dated 29.3.1995 ended in dismissal. Challenging the said order of dismissal passed by the lower appellate Court in C.M.A. No. 19/1995, the workman filed a revision before this Court in C.R.P. No. 1558/1995 and the same also ended in dismissal by order dated 28.4.1995 for presentation before proper Court. Thereafter the workman neither joined the duty, nor pursued his legal remedy by approaching proper Court.

6. The head office of the workman is situate at Chennai and it is the competent authority to make transfers and it has branch offices at Hyderabad and Bangalore. It appears that there was some correspondence between the workman and the management regarding the transfer. Since the workman did not join duty pursuant to his transfer at the new place, the Management issued show-cause notice dated 21.12.1994 directing the workman to show-cause within three days from the receipt of the notice, as to why disciplinary action should not be taken against him. To the said show-cause notice, the workman offered his explanation on 3.1.1995. Thereafter, the workman was served with charge memo dated 17.1.1995, wherein reference was made with regard to show-cause notice dated 21.12.1994. In the charge memo dated 17.1.1995, the workman was charged with following charges:--

1. Refused to proceed on transfer and
2. Have been absenting from duty without any excuse, unauthorisedly.

7. In the charge memo it was further indicated that an enquiry would be conducted at Bangalore office. Since the workman did not participate in the enquiry, it was adjourned from time to time and finally it was proceeded ex parte at Bangalore office, i.e., at the place where the workman was supposed to report

to duty. Eventually, the disciplinary authority at Chennai passed orders of termination on 26.7.1996 and undisputedly the same was served on the petitioner. Aggrieved by the order of termination, the workman raised a dispute before the Labour Court in I.D. No. 15/1996.

8. On the basis of the pleadings before it, the Labour Court first framed the issue "Whether the I.D. is maintainable in this Court ? If so, whether the enquiry is vitiated? "

9. As regards the maintainability, the Management raised the following objections before the Labour Court :-

1. Want of jurisdiction;
2. The petitioner is not a workman;
3. Transfer is not a dispute falling u/s 2-A;
4. Enquiry and consequent termination of service.

10. As regards the first objection the Labour Court held that the transfer orders were served at Hyderabad while the petitioner was serving at Hyderabad and also the order of termination besides show-cause notice and the charge memo and other notices were also served at Hyderabad and so a part of cause of action has arisen at Hyderabad. The Tribunal further held that the Industrial Disputes Act is a social legislation intended to benefit the workman and also promote industrial harmony and that is the reason why the technicalities especially as to the procedure and jurisdiction are not touched either in the main Act or under the rules framed thereunder. The Tribunal also held that when there is concurrent jurisdiction, it has to be seen whether any prejudice will be caused to any party by entertaining the dispute by Labour Court at Hyderabad, where some part of cause of action has arisen. It held that since the management has branch office and machinery to look after the disputes at Hyderabad, no prejudice would be caused to the Management if the dispute is entertained at Hyderabad. It further held that since the provisions of I.D. Act lean towards the workman, if the workman chooses to challenge the dispute at a Court where part of cause of action has arisen and when it causes no prejudice or inconvenience to the respondent/management, the technical objection raised by the respondent as to want of territorial jurisdiction has to be ignored. Giving some more reasons apart from the above, the Labour Court ultimately held that it has jurisdiction to entertain the dispute.

11. Regarding the objection whether the petitioner was a workman or not, the Tribunal held that a person who cannot take independent decision and has to work under the supervision and direction of superiors and when he has no subordinate staff, where he can sanction leave etc., such persons falls under the ambit of workman as defined u/s 2(s) of the Act. Accordingly answered this objection also in favour of the workman.

12. Coming to the third objection that since transfer is not a dispute falling u/s 2A of the Act, the Labour Court held that transfer cannot be challenged in the Labour Court, but when it culminates into dismissal, discharge or termination of the service of the workman, it has jurisdiction to consider the same. It however observed that it has no jurisdiction to go into the circumstances of the case under which the transfer orders were issued.

13. As regards the fourth objection the Labour Court upheld the validity of the enquiry and the findings thereof and also the consequent termination.

14. With the above findings, except on the aspect of the jurisdiction and also with regard to the question whether the petitioner before the Labour Court is a workman or not, answered all the issues in favour of the management. However, exercising the jurisdiction under 11-A of the Industrial Disputes Act, held that that order of termination is harsh and accordingly ordered reinstatement, treating the period of absence as leave without allowances.

15. As already stated above, both the workman as well as the management aggrieved by the award, filed these two writ petitions.

16. The workman who is appearing in person partly supporting the impugned award, contended that since he was served with all the notices and the orders of termination while he was at Hyderabad and also since he was staying in Hyderabad in A.P. State corresponding with the Management and pursuing legal remedies, the Tribunal at Hyderabad has got jurisdiction. He further contended that if the transfer is lawful, then only the question of disobeying and misconduct would arise. He contended that by transfer, his service conditions and other emoluments have been affected and as such the transfer is illegal. He also submitted that since the cessation of his services had preceded the enquiry, the same is against the principles of audi alterem partem and hence the orders of termination are illegal. With these submissions, he sought for dismissal of the writ petition filed by the Management and sought for back wages for his illegal termination. In support of his contention with regard to jurisdiction, the workman mainly relied on Workmen of Shri Rangavilas Motors (P.) Ltd. and Another Vs. Shri Rangavilas Motors (P) Ltd. and Others, .

17. On the other hand, the learned Counsel Sri C.R. Sridharan appearing for the Management assailed the impugned Award by raising many grounds viz., the Labour Court at Hyderabad has no jurisdiction; the employee is not a workman; that the order of reinstatement by the Labour Court while upholding the enquiry and the misconduct committed by the workman, is illegal; etc. But his main thrust is on the aspect of jurisdiction. He submitted that if this point is decided, then only the question of going into other merits would arise.

18. He submitted that the transferability was one of the conditions of service. The workman was transferred from Hyderabad branch to Manipal in Karnataka through proceedings dated 19.9.1994. Therefore when the transfer is effected, the workman ceases to be an employee at Hyderabad branch and will become an

employee of the Manipal Office i.e., in Karnataka State. Instead of obeying the orders, the workman filed a suit in civil Court for injunction on the ground that he is being prevented from attending the office. The suits and revisions filed by him ended in dismissal for presentation before the proper Court. But the workman did not present the suit in proper Court and, later filed the present I.D. He further stated that by virtue of the transfer orders, the workman becomes an employee at Manipal Office and he has to stay at that place only and it becomes his situs of employment. Just because the workman did not oblige the transfer orders or merely because he is staying at Hyderabad in A.P. State illegally, pursuing legal remedies, it does not confer any jurisdiction on the Courts at Hyderabad. He stated that the Head Office is at Chennai from where the transfer proceedings were issued and the enquiry was conducted at Bangalore Office, under which the Manipal Office falls and the orders of termination passed have to operate on the workman through Manipal office only since that is his situs of employment. He submits that situs of employment of the workman decides the forum for adjudication and not his illegal stay at some other place. He further stated that the workman did not question the enquiry and other aspects. Therefore, he contends that the Labour Court has got no jurisdiction to entertain the I.D.

19. In support of his contentions, he referred to Section 2(A)(2) of the Industrial Disputes Act and also drew the attention of this Court to G.O. Ms. No. 30, Labour Employment, Nutrition and Technical Education (Lab.IV), dated 27.1.1986, in which item No. 3 deals with the jurisdiction of the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad.

20. The learned Counsel for the management in order to demonstrate that the situs of employment would determine the jurisdiction, relied on the Full Bench judgment of the Patna High Court in Paritosh Kumar Pal v. State of Bihar 1985 (50) FLR 213.

21. In view of the above, first I will deal with the preliminary objection raised by the Counsel for the Management with regard to territorial jurisdiction.

22. Hence, it is necessary to extract Section 2(A)(2) of the Industrial Disputes Act, which was incorporated by way of amendment by the State of A.P. in Act 32 of 1987 with effect from 27.7.1987:--

Notwithstanding anything in Section 10, any such workman as is specified in Sub-section (1) may, make an application in the prescribed manner direct to the Labour Court for adjudication of the dispute referred to therein; and on receipt of such application the Labour Court shall have jurisdiction to adjudicate any matter in the dispute, as if it were a dispute referred to or pending before it, in accordance with the provisions of this Act; and accordingly all the provisions of this Act, shall apply in relation to such dispute as they apply in relation to any other industrial dispute.

23. From the above it is clear that the workman can raise an industrial dispute

upon His termination and the Labour Court shall entertain the same and deal in accordance with the provisions of the Industrial Disputes Act.

24. Further in item No. 3 of G.O. Ms. No. 30, areas of Secunderabad and St. John road, etc., were included. In the instant case, the Management has got office at St. John road, Secunderabad, therefore, the contention of the workman is that the Labour Court at Hyderabad has jurisdiction. According to the Counsel for the management, it is not merely the place where the workman resides, and pursues his legal remedies is criteria, but the place where the workman is supposed to stay in connection with his employment.

25. A reading of the facts of the Full Bench judgment of the Patna High Court in Paritosh Kumar Pal's case (supra), reveal that the workman therein was employed at Patna which is in the State of Bihar. As there were disputes with regard to payment of some commission, the employer-Company, which is having its head quarters at Calcutta charge sheeted the workman and thereafter terminated his service. The State Government of Bihar referred the dispute to the Industrial Tribunal in that State. Before the Tribunal the Management raised the following preliminary objection:--

"Whether the reference by the Government is incompetent inasmuch as the management is carrying on its business at and from Calcutta and the establishment is at Calcutta?"

26. Since the provisions of the Industrial Disputes Act appear to be silent on the issue of territorial jurisdiction, the Full Bench of the Patna High Court after considering various judgments of the Apex Court, including the decision in Rangavilas Motor's case (supra) and also the decisions of various High Courts, had formulated three principles for determining jurisdiction. They are extracted as under:--

1. Where does the order of termination of services operate?
2. Is there some nexus between the industrial dispute arising from termination of the service of the workman and the territory of the State?
3. That the well known test of jurisdiction of a civil Court including the residence of the parties and the subject-matter of the disputes substantially arising therein would be applicable?

27. Applying the above three principles, the Full Bench of the Patna held at paragraphs 14, 15 and 16 held as under"

"14. Consequently the situs of the workman's employment in the case of termination of his service is patently a paramount fact if not being wholly conclusive. It is within the area of employment that the order of termination operates and the workman ceases to be a workman and loses his right to hold the post and receive wages therefor. Therefore on the anvil of the principle of where the impugned order operates the situs of employment of the workman is

patently significant....

15. Again on the second principle attracted to the industrial dispute having some nexus with the territory of the State, the situs of employment of the workman assumes signal importance. Once a firm finding is arrived at that the workman was employed within a specific territory or State, the termination of his services therein has an obvious and direct nexus with such territory or such State. Consequently on the nexus test also the situs of employment of the workman has a direct connection with the territory where such employment is terminated..... That in Rangavilas Motor's case (supra) Their Lordships in terms approved the High Court's view that this nexus has to be between the industrial dispute and the territory of the State and not necessarily with the industry or its headquarters as such.

16. Coming now to the third principle, it appears to me that by binding precedent it is now well settled that the well known test of jurisdiction of the civil Courts would be equally attracted to the situation in the absence of any provision in the Act on the point.... It is axiomatic that the territory within which the services of an employee are wrongfully terminated would be the territory where the cause of action substantially arises and in a case if not wholly but a part of the cause of action so arises. On this acid test also the situs of employment of the workman would forthwith give jurisdiction to the civil Courts and a fortiori to the Tribunals and the Labour Courts under the Act."

28. Further meeting with the contention of the management therein that for the purpose of the Act it is insufficient that a part of industrial dispute arose within one territory and to confer jurisdiction such a dispute must arise wholly or substantially within the said territory, the Full Bench of the Patna High Court held at paragraph No. 19 as under: -

".... In the limited context of the termination of the service of a workman it seems unnecessary to enter into this controversy. Even if it is assumed entirely for argument's sake (without holding so) that the governing test is as to where the dispute substantially arises there it appears to me that in cases of termination of employment of a workman the industrial dispute with regard thereto substantially if not wholly, arises in the territory within which the workman loses his employment. Indeed the meat of the matter being the termination of employment it would substantially and primarily arise in the situs of such employment where in essence it would operate. Consequently at least the industrial dispute springing from the termination of the services of a workman arises substantially or wholly within the territory or the situs of employment and, therefore, confers territorial jurisdiction on the Industrial Tribunal having a way over the same. Considerations like the place where the workman was receiving his salary or the modus and manner of termination cannot be conclusive because the core of the matter is not where and how the workman gets his salary but for what he gets the same. The answer obviously is that he is entitled to it for working at the situs of employment and if consequent

upon the termination of service a loss of wages occurs therefrom the industrial dispute therefore cannot but be held to have arisen at the spot of work itself rather than elsewhere on fortuitous considerations."

29. From the above it is clear that the situs of employment assumes significance in determining the territorial jurisdiction. The Full Bench of the Patna High Court upheld the reference made by the State of Bihar, since the workman therein was employed in that State, even though the head office of the respondent - management is at Calcutta.

30. The learned Counsel for the management, for the sake of argument, contended that had the workman challenged his transfer orders at Hyderabad, then the Labour Court at Hyderabad might have jurisdiction to consider the dispute. He stated that admittedly the workman did not challenge the orders of transfer and he challenged only the subsequent orders of his termination, which has to be operated on the workman through Manipal Office and as such even on this ground also the jurisdiction of the Labour Court is ousted.

31. In order to meet the above contentions, it is necessary to note few admitted facts. By the proceedings dated 19.9.1994, the workman was transferred from Hyderabad office to Manipal Office. In the transfer proceedings it was indicated that with effect from 3.10.1994, the services of the workman shall stand transferred to Manipal office. That means he ceases to be an employee at Hyderabad office from that date and becomes an employee at Manipal Office. Thereafter, as narrated in the facts, the workman did not join at the new station and stayed back at Hyderabad and filed suit and sought for injunction on the ground that he is being prevented from attending the office at Hyderabad. As the suit ended in dismissal for presentation before proper Court, he filed various revision petitions before this Court and they also ended in dismissal for the very same reason. The workman admittedly did not file any suit thereafter before the proper Court as directed. Hence, apparently there is no injunction in favour of the workman. Thereafter obviously for the reason that since the workman attempted to attend the office at Hyderabad, the Management issued a letter dated 6.10.1994 informing him that he ceased to have any link with Hyderabad office with effect from 3.10.1994. Therefore the workman ceased to be an employee of the Hyderabad office from 3.10.1994 and accordingly the obligation on the party of the Hyderabad Office to pay salary and other allowances to the workman also ceases and it becomes the obligation or duty on the party of the Manipal office to pay the salary to the workman from 4.10.1994, since from that date he becomes the employee of that establishment. Further it is not the case of the workman that even after such transfer, he was paid salary at Hyderabad office, nor any work was extracted from him at Hyderabad office. It is also not the case of the workman that he claimed any allowance or salary from the Hyderabad office, nor any payment is made and there is also no material in this regard on record.

32. This conduct of the workman shows that he himself accepted the cessation

with Hyderabad office with effect from 3.10.1994. If the transfer order causes him any hardship, he was always at liberty to bring such hardships to the notice of the management and seek redressal after joining at the new station. In such case the conduct of the workman in staying at Hyderabad without proceeding to Manipal Office and joining there cannot be appreciated. The result is that the management, issued notice and conducted enquiry, and found the workman guilty and ultimately terminated him from service.

33. The workman strangely raised a contention that he was not served with transfer orders at all. This contention merits only rejection on two grounds viz., firstly the workman himself filed suit on the ground that he is being prevented from attending the office. Admittedly by then there is no order of termination. Therefore, from this the only inference that is possible is that there was some order, which is no other than the order dated 19.9.1994, directing the workman to join at some other place and that order in the facts and circumstances is nothing but transfer order and not anything else. Secondly it is on record that when the personnel of the Management attempted to serve transfer orders upon the workman he refused to receive them and to that effect the Branch Manager endorsed on the transfer proceedings and this endorsement was also attested by another responsible officer.

34. The other contention of the workman is that the cessation of his services has preceded enquiry and this is violative of principles of audi alteram partem. This submission also cannot be appreciated for the reason that firstly the workman refused to receive the transfer orders dated 19.9.1994 and secondly cessation from Hyderabad office through letter dated 6.10.1994 does not amount to termination in strict legal sense. It means that the workman ceases to be an employee at Hyderabad office and his name will be noted in the rolls at Manipal office and he continues to be an employee at Manipal office. Therefore, there is no question of violation of any principles of audi alteram partem as contended by the workman.

35. The other contention that he was not paid any salary also merits rejection. As already stated after the transfer, the Management did not extract any work from the workman and it is also not the case of the workman that he rendered any service from the date of cessation of his services which had come into effect from 3.10.1994. Instead of proceeding to new station, the workman stayed back at Hyderabad pursuing his legal remedies, which ultimately resulted in nothing. Therefore, since the workman did not join at the new station, and he stayed at Hyderabad without any permission, the same was treated as unauthorised absence.

36. In my considered view, by virtue of the transfer orders dated 19.9.1994 and the subsequent letter dated 6.10.1994, wherein it was mentioned that the workman ceased to be an employee at Hyderabad, his situs of employment becomes the office at Manipal. Therefore, as contended by the Counsel for the management, just because the workman stayed illegally at Hyderabad without

proceeding to Manipal or just because he was pursuing legal remedies at Hyderabad, it cannot validate the illegal stay of the workman at Hyderabad and confer the jurisdiction on the Courts in A.P.

37. The other contention of the workman is that the question of disobedience would arise only when the transfer order is lawful and that by transfer his service conditions and other emoluments were affected. Admittedly transferability was one of the service conditions. Except contending that the transfer is illegal and his service conditions and emoluments are affected, no relevant material is produced by the workman. Therefore, in my view this is a vague contention and merits only for rejection.

38. Regarding the jurisdiction, the workman relied on the judgment in Rangavilas Motor's case (supra). The broad facts of the said case reveal that the workman therein was employed at Bangalore and he was transferred to Krishnagiri in Tamil Nadu and as the workman did not join duty, he was terminated from service. Thereafter, the workman raised I.D. at Bangalore, where he was terminated and the Supreme Court held that Labour Court at Bangalore has jurisdiction to entertain the dispute.

39. But a detailed perusal of the facts would reveal that the transferability was not one of the conditions of service. As per the terms and conditions the workman therein shall not be transferred for a period often years. Since the management transferred the workman in violation of the terms and conditions, the transfer itself was found to be illegal and, therefore, the consequent termination for disobeying the orders were also found to be illegal. In those circumstances, the dispute raised by the workman at Bangalore, even though the orders of termination have to operate from Krishna Giri, the Hon'ble Supreme Court held that Tribunal at Bangalore has jurisdiction to entertain the same.

40. But coming to the case on hand, transferability was one of the conditions of service. Therefore, transferring the workman from one place to other is not violative of the terms and conditions and therefore, the contention of the workman that transfer itself was illegal cannot be countenanced and also the law laid down by the Supreme Court in Rangavilas case (supra) cannot be applied in all fours, even though the same is unexceptionable. To put it more precisely his dispute before the Industrial Tribunal is mainly against the termination and incidentally the orders of transfer were challenged.

41. From the above it is clear that the workman committed misconduct in not joining at the new station. Further I once again reiterate that I am in full agreement with the full bench judgment of the Patna High Court and hold that the situs of employment would become paramount in raising the industrial dispute. Since the situs of the employment of the workman was at Manipal with effect from 3.10.1994, as indicated in the order of transfer dated 19.9.1994 and notice dated 6.10.1994 and the same was treated as misconduct, by the office at Bangalore.

42. In other words he ceases to be an employee of Hyderabad office with effect from 3.10.1994 and supposed to have born at the new station at Manipal, within the jurisdiction of Bangalore Office. Therefore, as contended by the learned Counsel for the Management, no cause of action arose for the workman at Hyderabad with effect from 3.10.1994 and mere stay at Hyderabad does not create any legal right to agitate his grievance about his termination after the cessation at Hyderabad office. At the most his stay at Hyderabad is only illegal and as rightly pointed, the same amounts to absenting himself from attending the duties at the new station. To put it in a different way, his stay at Hyderabad even after the cessation, must be for a valid reason. Further as it is already noticed, his grievance before the Tribunal was primarily regarding the termination. Hence in my view the workman had created an artificial cause of action to raise the dispute at Hyderabad, by incidentally questioning the orders of transfer also while challenging the orders of termination. Hence in view of the judgments referred to supra and also for the foregoing reasons, I am of the considered view that Industrial Tribunal-cum-Labour Court at Hyderabad has no jurisdiction to entertain the application filed by the workman u/s 2(A)(2) of the Industrial Disputes Act and accordingly the impugned judgment is no judgment in the eye of law for want of jurisdiction and the same is liable to be set aside.

43. In view of the finding with regard to jurisdiction, there is no need for me to go into other findings of the Labour Court on other aspects.

44. Before parting with the case, taking into account the fact that the workman has been agitating the issue in one Court or the other since 1995 and since he is left only with four years of service, this Court advised both the parties to explore the possibilities of settling the issue out of Court. To this advise, the management came forward and agreed to offer a lumpsum of about rupees five to six lakhs. But the workman is not agreeable to the said offer. Therefore, this Court is impelled to pass the order on merits.

45. For the foregoing reasons, on the aspect of jurisdiction, the impugned award of the Tribunal is set aside.

46. Accordingly WP No. 28776/1997 filed by the Management is allowed and the impugned award of the labour Court is set aside.

47. In view of setting aside of the award of the labour Court, the claim of the workman in WP No. 19426/1999 cannot be adjudicated and the writ petition is dismissed. No costs.

48. It is made clear that the workman is always at liberty to raise an industrial dispute before appropriate Court and upon the same being the filed, it shall be entertained by the Court concerned without raising any objection as to limitation.

49. Apart from the above, liberty is also given to the workman to make a representation to the competent authority/ appellate authority within four weeks from the date of receipt of a copy of this order, seeking consideration of his case

and upon such representation being made, the Management shall reconsider the case of the petitioner sympathetically to the extent possible as regards the quantum of punishment, and pass appropriate orders. These observations are made only keeping in view of the fact that the irregularity alleged to have been committed by the workman is only not obeying the transfer orders and in my view it is not a grave mistake. However, it is a matter of disobedience and the discipline in the organisation and the Management has every right to take appropriate steps to maintain discipline in the organization and hence undoubtedly treating the gravity of the irregularity and imposing punishment, is always in the discretion and domain of the management.

50. Further all through the attitude of the Management appears to be basically on principle and not in any way against the individual.