

(1995) 09 MAD CK 0112

In the Madras High Court

Case No : W.A. No"s. 161 and 162 of 1994

Workmen

APPELLANT

Vs

Management of India Forge and Drop Stampings Ltd., and
ors

RESPONDENT

Date of Decision : 26-09-1995

Acts Referred:

Industrial Disputes Act, 1947 — Section 10(1), 12(3), 25FFA

Citation : (1996) 74 FLR 2052

Hon'ble Judges : K.A. Swami, J;D.J. Jagannadha Raju, J

Bench : Division Bench

Judgement

Raju, J.—The above writ appeals have been filed against the common judgment of the learned single Judge dated January 10, 1994, in W.P. Nos. 618 and 2366 of 1990.

2. Writ petition No. 618 of 1990 has been filed by the management of India Forge and Drop Stampings Limited (hereinafter referred to as "the management"), seeking for a writ of certiorari to call for and quash the award passed by the Presiding Officer, Industrial Tribunal, Madras, dated November 27, 1989, in I.D. No. 23 of 1984.

3. Writ Petition No. 2366 of 1990 has been filed by, the workmen represented by the secretary, India Forge and Drop Stampings Employees" Union (hereinafter referred as "the union") seeking for a writ of certiorari to call for and quash the award dated November 27, 1989, in I.D. No. 23 of 1984 in so far as the Industrial Tribunal at Madras has denied the workers full backwages.

4. The Industrial Tribunal entertained the dispute on a reference made to it by the State Government, u/s 10(1)(c) of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act"), in G.O. Ms. No. 589, Labour Department, dated March 13, 1984, in the following terms :

"Whether the stoppage of work in India Forge and Drop Stampings Ltd.,

Ambattur, with effect from January 19, 1984, is a genuine case of closure or lock-out and to what relief the workmen would be entitled ?"

5. Before the Industrial Tribunal, in the claim statement filed by the union it was stated that the company in question is one of the leading manufacturers of forge and stampings in India, that it has got its factory at Ambattur, Madras, that it is a public limited company started with a capital of Rs. 50 lakhs in the year 1960, which was earning a lot of profit and expanding its activity also simultaneously, that it had established a reputation as a quality forging unit in India and that the company sustained loss in the year 1974 when it came under a particular individual Managing Director. At the time, the total strength of the factory was said to be 1,100 workmen and the management wanted to retrench 500 workmen and achieve maximum production. The union appears to have objected to the same. Hence, a voluntary retirement scheme was said to have been introduced by the management and the workers were forced to accept the scheme, as a result of which the strength of the company was said to have been reduced to 546. The management also appears to have wanted to engage contract labourers in the place of permanent workers to which also there was strong opposition, resulting in a lock-out in the year 1976. Thereafter, it appears, the factory was finally reopened in February, 1977. After the reopening of the factory, the company appears to have earned huge profits and opened branches in Faridabad, Pune and Hosur with the financial support of the Ambattur branch. One more branch was also said to have been started at Maraimalal Nagar. It is claimed by the union that the directors slowly diverted the orders obtained in the Ambattur branch to other branches and the then Managing Director also started a forging unit at Kandanchavadi under the name of Forge Tech, which is claimed to be a benami factory of the then Managing Director. It is also stated that the Managing Director started diverting many of the orders placed with India Forge to the benami company Forge Tech and, therefore, several items which should be manufactured by the company in question, for which it is claimed to have and infrastructural facility, were said to have been given to Forge Tech under the cover of a sub-contract. It is also alleged that on lathe purchased from Ludhiana on account of India Forge, Ambattur, has been installed at Forge Tech. Similarly, it is averred that certain other machinery also purchased for and on the account of the Ambattur plant, have been, removed to Forge Tech and orders placed on India Forge, Ambattur plant, by Ashok Leyland and Bhel., Thiruchy, were stated to have been manufactured by the Forge Tech and the modus operandi as adopted by the management in this case is nothing but doing the manufacturing process at another place. It is also stated that the entire manufacturing activities of the Ambattur plant were slowly shifted to other branches and the required raw materials were not supplied to the Ambattur plant. The technical personnel were also said to have been transferred to other branches and the vacancies in the Ambattur branch were said to have been not filled up. All these were said to have had an adverse effect on the production quality of the Ambattur plant and these tactics were said to have been adopted to show that the Ambattur plant was not

properly working so as to throw the blame on the workers. Even though the workers were willing to work, they were said to have been not given raw materials and proper supply of tools, resulting in short falls on all sides, solely attributed to the management and not to the workers. It is also claimed that all the orders placed on the Ambattur unit were in fact being manufactured even after the alleged closure of the company at the other places using the infrastructural facilities that were said to have been removed from the Ambattur unit and, consequently, according to the union, there was no stoppage of manufacturing activity at any point of time. It is further claimed that the orders placed on the company in question could be easily honoured by production at the Ambattur unit itself and the management adopted the tact of slowly removing and fixing many of the sunk dies in other units and diverted its production. It is asserted that there was no stoppage of manufacturing process at any point of time and with the object of sending the employees out of jobs, through contract labours, the management was said to have issued a closure notice by its letter dated November 14, 1983, u/s 25FFA of the Act assigning the following reasons :

- (1) There was a demand recession from early 1982;
- (2) Number of orders placed on the Ambattur unit have been cancelled due to lack of requirements if and inability to maintain timely deliveries;
- (3) The inability and refusal of operating personnel to measure up to the demands ;
- (4) Totally uneconomical operations during the year ending June, 1983; and
- (5) Between July and October, 1983, the gross production was only 520 mt. and a good percentage of which is lying unsold due to poor demand.

6. The union refuted all these allegations and stated that there was no recession for the respondent company, since Ashok Leyland, the main customer, has increased its production by further 12 vehicles per day and there were increased orders from BHEL, Railways and defence factories. It is also stated that the company was unable to meet the demand due to lack of raw materials and other inputs and the Ambattur unit could not complete the work in time since there was no stock of raw materials or due to the fact that the same was not supplied to that branch. though the workers were willing to work. In addition to the shifting of raw materials and tools from the Ambattur unit to other units, due to the lapse on the part of the management to install a generator it was stated that there was a fall in production and though the generator set was said to have reached the Ambattur unit, it was not commissioned till June, 1983, and the loss claimed was not at all due to the workers. The profit and loss account for the years 1977 to 1983 were claimed to show that the company was a viable unit and not a losing concern and, therefore, the reasons assigned for closure were absolutely false. The conciliation proceedings initiated ended in failure. The stoppage of work in the company was nothing but a lock-out and the management deliberately wanted to create a situation to make the Ambattur unit

a sick unit. Having regard to the above, it is claimed by the workers' union that the stoppage of work in such manipulated circumstances was nothing but a lock-out made with a mala fide intention. The workers claimed that the management should be directed to reinstate all the employees.

7. The management filed its counter-affidavit before the Tribunal claiming that it should first decide the issue as to whether the action of closure is real, since the finding on that alone would give jurisdiction to adjudicate the reference. According to the management, the company suffered heavy loss during the years 1971-72 resulting in the change of the constitution of the Board of Management in 1973 and the new Board reduced the cost of expenses on account of labour, which was said to have accounted for 30 percent, of the revenue as compared with 5 to 8 per cent, in other units of the industry, necessitating introduction of the scheme for voluntary retirement. Even after the introduction of the said scheme, the labour cost was excessive and many of the workers were said to have resigned taking advantage of the voluntary retirement scheme and no one was retrenched. It is also claimed that the company opened other factories in India due to the facilities extended by other States for industrialization and the need of customers to have a supply unit nearer to their place and compared to the Ambattur unit, the other units were said to be not similar. The Hosur unit was set up for mixing cross-rolled and ring-rolled forgings. The Unit at Faridabad was to have been a foundry making castings and many units were set up through long-term loans granted by banks and not out of profits. It is also stated for the management that the substantial production at the Ambattur unit was to cater only to Ashok Leyland, Madras, and the production of Faridabad, Pune, and Hosur was to cater to other customers located nearby. Forge Tech is a separate company which came into existence from August, 1983, having no connection with the management in question, that even prior to Forge Tech, company products were manufactured outside by engaging special contractors without detriment to the volume of work required from the workmen in the Ambattur unit and that it is in pursuance of the said contracts, Home works had been given on sub-contract to Forge Tech on commercial policy basis and the claim of the workers' union that the orders were diverted to Forge Tech and other companies was not correct, It is also claimed that the management in question had no product of its own, but was merely doing work for automobile manufactures like Ashok Leyland, Bajaj, Telco, etc. The management claims that there had been recession in the automobile industry during the year 1982-83 and the cost of raw materials required for the forging industry accounted for 60 percent, of the revenue while power and fuel accounted for 15 per cent, and the balance 25 percent, accounted for wages, interest, stores, repairs, etc. The establishment wages accounted for 30 percent, of turnover leaving no scope for economy and, therefore, it is incorrect to state that all the experienced technical personnel were transferred to other branches. The production at the Ambattur unit was said to have even touched an all time high of 3,450 tonnes in 1981.

8. The management also has filed an additional counter-affidavit stating that

there was a settlement u/s 12(3) of the Act on September 30, 1981, granting increase in wages, dearness allowance house rent allowance and incentive scheme and since there was market recession the automobile industry coupled with power cut, the workmen were informed of the position of the company at the juncture and demands were made to avoid lay-off to the extent possible. The management was said to have sought for the co-operation of the workers to work all the seven days to achieve the maximum production and in spite of this, there was a fall in production in 1983 and the workmen also refused to work on Sundays. As a consequence, at the end of the financial year ending June, 1983, it was revealed that the production was only 1,500 metric tonnes, even less than half of the production in the earlier years. Reference was also made to the notice dated November 7, 1983, by the management to the union to avert collapse and there was exchange of correspondence between the union and the management and ultimately, the management had to announce a voluntary retirement scheme, to which the union had strong opposition. Since the position, according to the management, was not found improving, even after all these efforts, the management gave notice to the Government u/s 25FFA of the Act, of its intention to close down the manufacturing activities at the Ambattur plant with effect from January 14, 1984, stating the reasons with copies thereof, also to other unions. The unions were said to have opposed the same and also started preventing despatch of all the finished goods. Allegations of forceful entry, and commission of acts of mischief at Forge Tech Company also were made and the management further claimed that it had no other alternative except to close the company resulting in the issue of closure notice on November 17, 1983 and individually also on December 17, 1983, and finally, by general notice on January 18, 1984, which the management claimed to have been for valid and Justifying reasons. Consequently, the management prayed before the Tribunal that the stoppage of work from January 19, 1984, may be held to be a case of closure and that the workmen are not entitled to any relief.

9. The union appears to have filled a reply stating that there is no need to decide any issue as a preliminary issue for the Tribunal and that the order of reference itself was sufficient to confer such jurisdiction on the Tribunal required to adjudicate the dispute. In other respects, they have reiterated the claims made in the earlier claim statement in addition to refuting the claims made by the management in the counter-statement. It is also contended by way of reply by the union that the recession in the automobile industry has no effect on the Ambattur unit since it was said to have had sufficient orders on hand during that period and that the management was still receiving orders in favour of the Ambattur unit. It was contended that the management had not closed the business activities and it has only closed the place of business and the, stoppage of work only in the unit at Ambattur was nothing but a lock-out.

10. After due analysis and consideration of the oral and documentary evidence placed before the Tribunal and also the submissions made on either side, the Tribunal by its impugned award held that the stoppage of work by the

respondent-management at the factory at Ambattur was not a genuine closure, but only a lock-out, which was illegal and consequently, the Tribunal directed reinstatement of the workers in their respective posts with half wages within one month from the date of publication of the award in the Gazette.

11. It is only aggrieved against the said award that both the management and the union filed writ petitions as noticed supra.

12. The learned single judge was of the view that the Tribunal has not considered the evidence adduced in the proper perspective and held that just because the company is functioning, the Tribunal cannot come to the conclusion that the Ambattur unit alone is not closed. While advertent to the consideration by the Tribunal of the materials noticed in paragraphs 14 and 16 of award the learned judge was of the view that the finding of the Tribunal that the documents referred to in the paragraphs of the award would show that for all purposes the factory of the company has not been closed, and the production was carried on incessantly and they have not been taken elsewhere, was uncalled for on the materials placed before the Tribunal. Once again with reference to the conclusions of the Tribunal in paragraph 17 of the award, the learned single judge observed that the Tribunal itself has rightly found that it is a case of closure of factory and not the business itself and, therefore, it should be taken that the conclusion of the Tribunal was that the Ambattur unit was closed. On that premise, the learned Judge was also of the view that if the Tribunal has come to such a conclusion, there was no further jurisdiction in the Tribunal to go into any other question and it was not for the Tribunal to say that the business of the company itself has to be closed in its entirety or, in other words, the company has to be wound up. Consequently, the learned Judge held that the approach of the Tribunal to the question itself was perverse and not in conformity with the various decisions noticed in the judgment. The learned judge has also held that he was unable to accept the findings of the Tribunal that the union has convincingly proved that in order to deprive the workers of their livelihood and with mala fide motive, the company, has closed the place of factory at Ambattur alone and not the business and that at any rate, the workers cannot have a grievance when the company carries on its business as a separate legal entity. According to the learned Judge, this was not a case where the employer has ceased operation of the company and shifted the means of production elsewhere and when a unit of the company is kept closed after following the provisions contained in section 25FFA of the Act, the workmen can have no grievance. Therefore, the learned Judge set aside the award, since in the view of the learned Judge, the findings of the Tribunal are not based on evidence and that the Tribunal has not also taken the evidence on record in the proper perspective and applied the law correctly. In view of the above, W.P. No. 2366 of 1990 filed by the union was dismissed and W.P. No. 618 of 1990 filed by the management was allowed. Hence, the workers' union has filed the above two writ appeals.

13. Mr. V. Prakash, learned counsel appearing for the appellants, submitted that

the order of the learned single Judge is contrary to law and that the award of the Industrial Tribunal could not be considered to suffer from any error of Jurisdiction and when the union has convincingly proved before the Tribunal to the satisfaction of the said Tribunal that the action of the management constitutes only a lock out, the learned Judge committed an error in interfering with such findings of facts as though exercising appellate Jurisdiction by reappreciating the evidence. Learned Counsel for the appellants also contended that the evidence on record and the materials adverted to by the Tribunal proved beyond doubt that the closure of the unit at Ambattur was not a genuine one and that actually there was no cessation of manufacturing activities of forging and business relatable to the Ambattur unit. The plethora of case-laws placed for consideration before the learned single Judge were also referred to once again before us. In support of the stand taken for the appellants, learned counsel appearing for the appellants invited our attention to some of the documents produced and marked in the case and also the oral evidence and to the findings of the Tribunal cannot be stated to be either perverse or not based on relevant evidence or not in accordance with the declaration of law governing the matter in issue.

14. Per contra, Mr. A. L. Somayajl, learned Senior Counsel appearing for the management, while adopting the reasoning of the learned single Judge, also invited our attention to some of the decisions on the subject to contend that the learned Judge was right in holding that the findings recorded by the Industrial Tribunal stood vitiated on account of the perversity of approach and failure to take into consideration the relevant principles of law governing the matter in issue. The learned senior counsel also invited our attention to some of the documents and the oral evidence in support of his contentions with particular reference to project his challenge to the award on the ground that the documents referred to by the Tribunal as Justifying its conclusions were totally irrelevant and beside the point and could not even remotely justify or warrant the conclusions arrived at by the Tribunal.

15. We have carefully considered the submission of learned Counsel on either side. It is by now a well-settled by more than one decision of the Supreme Court as also of this Court that the concept of closure in law is not merely closing down the place of business, but, on the other hand, the business itself must be relinquished clearly and unmistakably and the legal personality of the same must come to an end. When an employer is really continuing the business as distinguished from the mere outward form of it, and that in the case of legal closure, an employer does not merely close down the place of business, but he closes down the business itself and consequently, the closure indicates a final and irrevocable termination of the business itself, in contrast to lack-out which indicates closure of the place of business and not closure of the business itself. It is also well-settled that where the closure is mere pretense or unreal in the sense that having purported to close the agencies, the same have been allowed to function all the time under a different garb, it would not constitute closure in law. Equally. it is well settled that it would not be necessary to wind up the company,

or the concern itself to substantiate the claim of closure in law. (vide Express Newspapers P. Ltd. Employees Union v. Express Newspapers (P). Ltd., 1960 I LLJ 351 SC; The Management of Express Newspapers Ltd. Vs. Workers and Staff Employed under it and Others, ; The Andhra Prabha Ltd. and Others Vs. Secretary, Madras Union of Journalists and Others, ; Tea Districts Labour Association v. Ex-employees of Tea Districts Labouras, Association, 1960 I LU 802 SC; Workmen of Indian Leaf Tobacco Development Co, Ltd. v. Indian Leaf Tobacco Development Co. Ltd., 1970 I LLJ 343 SC, Tatanagar Foundry Co. Ltd. Vs. Their Workmen, ; and Isha Steel Treatment, Bombay Vs. Association of Engineering Workers, Bombay and Another,].

16. If the award under challenge before this Court under Article 226 of the Constitution of India and the findings of the Industrial Tribunal are tested with reference to the above well-settled principles of law, we are of the view that the Industrial Tribunal cannot be attributed with having suffered under any misconception of law or misdirection to the above well-settled principles, while assessing, analysing and appreciating the oral and documentary evidence placed before it for its consideration. No doubt, in paragraph 17 of the award, the Tribunal has observed with reference to the Ambattur unit that it is a closure of factory. But, the same has to be viewed and appreciated in conjunction with the other observations and findings of the Tribunal that it was equally not a closure of business itself. In our view, a factual closure of a unit does not ipso facto constitute closure of the business also and the Tribunal has not only understood the correct position of law but appeared to have taken pains to maintain the dichotomy between the factual closure or the pretended closure on the one hand and the closure of the business once and for all on the other which alone would constitute closure in the eye of law. Equally, we are of the view that the criticisms and conclusions of the learned Judge on the manner of analysis and appreciation of evidence in paragraphs 14 to 16 of the award are not well-justified. On going through the materials on record, to which our specific attention was invited, the manner of appreciation and the method of consideration by the Industrial Tribunal of the entire materials and the findings arrived at by the Tribunal and also the observations and conclusions of the learned single Judge, we are of the view that there is no Justification to castigate the findings of the Industrial Tribunal either as vitiated by perversity of approach or that those findings of the Tribunal are not based on any evidence or totally unwarranted on the evidence adverted to and relied upon by the Tribunal. The very case of the union both before the Industrial Tribunal and before this Court is that though there was a pretense of closure of the Ambattur unit and the manufacturing activities at the Ambattur unit, the business activities pertaining to the same Ambattur unit have been diverted to other units and/or to Forge Tech and were being carried on continuously without any complete cessation of the business relations. It is in order to substantiate such a claim that the workers endeavored and in our view were also successful in substantiating their claim, that though there was stoppage of work at the Ambattur Unit, the business

activities pertaining to the said unit were, without disruption, being carried on. Strong reliance in this regard was placed on the very admissions of M.W. - 1 and the evidence of M.W. - 3, Assistant Manager (Financial Division) of Ashok Leyland, Madras, that the business activities and manufacturing and supply to Ashok Leyland continued, and that the customers of the Ambattur unit are Ashok Leyland (90 percent), and BHEL, Railways, Telco and Defence (10 percent) and that the goods manufactured at Ambattur are still manufactured by the company at Forge Tech and supplied to these customers. Thus, it could be seen that from the evidence on record, which has been specifically adverted to by the Industrial Tribunal and the oral evidence referred to above, the stand of the workers that the closure by way of stoppage of work at the Ambattur unit was not really a closure in law of the business, stood established. The facts such as the stoppage of production at the Ambattur after the closure, closing of H.T. power supply to the Ambattur unit from June. 1987, and the sale by the Advocate-Commissioner appointed by this Court of the remaining materials manufactured prior to closure, on which very strong reliance has been placed at the time of hearing by the learned Senior Counsel for the management, are in our view, not decisive factors sufficient to substantiate their claim of a legal closure. These factors can only point to the stoppage of work or of production activities at the Ambattur Unit. On considering the materials on record with the evidence made available showing diversion of machinery and infrastructural materials and honouring of the business commitments undertaken to Ashok Leyland without break would, in our view, constitute more than sufficient evidence required to substantiate the claim of the workers as also the finding recorded by the Industrial Tribunal that the stoppage of work at the Ambattur unit was not a closure in law, but only a lock-out. The observations of the Industrial Tribunal at some places about the closure of the unit are not to be confused with the closure in law of the business at the Ambattur unit. The words "closure" and "lock-out" as defined in the Act and as interpreted by the Supreme Court as well as by this Court, have a connotation of their own in the eye of law and they are not mere ordinary words of usage to be confined to their literal or dictionary meaning. Viewed thus in the context of the principles of law enunciated by various decisions of the Apex Court and this Court and the materials placed on record, we are of the view that the findings of the Industrial Tribunal are well merited and well justified on the oral and documentary evidence on record. The conclusions of the learned single Judge to the contrary that there was no evidence to support the findings or that the findings have been recorded and rendered on a perverse understanding of the evidence or that the relevant legal principles have been sidelined or ignored from consideration, are not justified in law as well as on the facts and circumstances of the case. The conclusions of the learned single Judge to the contrary are, therefore, liable to be set aside.

17. The further question is as to whether the learned single Judge committed an error in entering into the area of consideration of the evidence and thereby transgressed the well-settled peripheral limits for the exercise of jurisdiction

under Article 226 of the Constitution of India while reviewing the finding of facts rendered by the Statutory and Judicial Tribunal specially constituted under the Act for that purpose. Learned Counsel for the workers" union contended that under the scheme of the Act, the Tribunal is a special machinery for investigation of facts on the basis of oral and documentary evidence made available by the contesting parties before it and, therefore, the Courts exercising jurisdiction under Article 226 of the constitution of India will not review such finding of facts recorded by the competent Tribunal, even if they be erroneous, as though exercising appellate jurisdiction and that the Court or the Tribunal, which has jurisdiction over a subject-matter, has jurisdiction to decide wrong as well as right about a matter before it.

18. Per contra, learned Senior Counsel appearing for the management, contended that the question as to whether there was a closure of the Ambattur unit effect from January 19, 1984, was a finding on a jurisdictional fact and if the Industrial Tribunal wrongly assumes jurisdiction, it is well within the scope of the writ jurisdiction to issue a writ of certiorari to quash such findings.

19. In support of the respective stand taken on either side in this regard, the following decisions have been placed for our consideration : Raza Textiles Ltd. Vs. Income Tax Officer, Rampur, ; Mariamman Handloom Factory v. State of Madras 1959 II LLJ 627 Mad; Delhi Transport Corporation v. Delhi Administration, 1972 II LLJ 307 Del; Kalinga Tubes Ltd. Vs. Their Workmen, ; General Labour Union (Red Flag) Bombay Vs. B.V. Chavan and Others, ; Rai Brij Raj Krishna and Another Vs. S.K. Shaw and Brothers, , Bhataraju Nageshwara Rao Vs. The Hon"ble Judges of The Madras High Court and Others, ; Express Newspaper (Pvt.) Ltd., v. Their Workmen, (Supra); Agnani (W. M.). v. Badri Das, 1963 I LLJ 684; Workmen of Royal Arts v. Labour Court, 1964 I LLJ 162 Mad; Sadhu Ram v. Delhi Transport Corporation 1963 II LLJ383, Eifco Oil Engine Industries, Coimbatore Vs. Labour Court, Coimbatore and another,).

20. It is by now well-settled that though the jurisdiction under Article 226 of the Constitution of India is truly wide, but, for that very reason it has to be exercised with great circumspection and it is not for the High Court to constitute itself into an Appellate Court over the Tribunals constituted under special legislations to resolve the disputes of kind qualitatively different from ordinary civil disputes and to readjudicate upon questions of fact decided by those Tribunals. Be it that such questions decided pertain to jurisdictional facts since that by itself does not entitle the High Court to interfere with the findings on jurisdictional facts, which the Tribunal is well competent to decide in the same manner as an Appellate Court can interfere with any finding of fact. We are very much alive to the position that there are no limits as such on the scope, extent and content of the powers under Article 226 of the Constitution of India. There are, at any rate, certain and well settled self-imposed restrictions which the Courts, except under extra ordinary cases of monstrous circumstances of the situation or in order to answer the extreme calls of distress, would not normally undertake to interfere.

In decisions in *Management of Express Newspapers (Pvt). Ltd. 's case (supra)*, *Workmen of Royal Arts" case (supra)*, it has been held both by the Apex Court and this Court in the context of an identical situation, wherein a dispute had been raised with reference to a particular activity constituting a closure or lock-out in law, that the findings of the Tribunal are not such which can normally be undertaken for review or interfered with by this Court in exercise of its writ jurisdiction. In our view, on the facts and in the circumstances of this case, there are no extraordinary circumstances, which would persuade us to take the view that an interference with the award passed by the Tribunal is called for under Article 226 of the Constitution of India. The learned single Judge, therefore, in our view, was not at all Justified in interfering with the award for any of the reasons assigned, which, as we have held earlier, are not well merited on the facts and circumstances of the case. Further, we do not see any merit in the challenge made to that portion of the award, wherein the relief of backwages was confined to half of the wages. Apparently, the Tribunal was conscious of the financial implications and the conditions of the industry also in addition to the strained industrial relations and it could not be said that the conclusions arrived at by the Industrial Tribunal in this regard are wholly perverse.

21. In the light of the conclusions arrived at by us, we are of the view that it is not necessary to deal in detail with each one of the decisions cited on either side referred to above.

22. For all these reasons stated above, we set aside the order of the learned single Judge, allow W.A. No. 161 of 1995 and dismiss W.P. No. 618 of 1990 W.A. No. 162 of 1995 filed against W.P. No. 2366 of 1990 is also dismissed. There will be no order as to costs.