Straw Board Mfg. Co Ltd vs The Workmen on 1 March, 1977

Equivalent citations: 1977 AIR 941, 1977 SCR (3) 91, AIR 1977 SUPREME COURT 941, 1977 2 SCC 329, 1977 LAB. I. C. 543, 1977 (1) LABLN 399, 1977 3 SCR 91, 1977 (1) LABLJ 463, 1977 2 SCJ 455, 34 FACLR 269

Author: V.R. Krishnaiyer

Bench: V.R. Krishnaiyer, Jaswant Singh

PETITIONER:
STRAW BOARD MFG. CO LTD.

Vs.

RESPONDENT:
THE WORKMEN

DATE OF JUDGMENT01/03/1977

BENCH:
KRISHNAIYER, V.R.
BENCH:
KRISHNAIYER, V.R.
SINGH, JASWANT

CITATION:
1977 AIR 941 1977 SCR (3) 91
1977 SCC (2) 329

ACT:
Gratuity--Qualifying period of service and calculation of amounts--Tests for determination.

HEADNOTE:
In an industrial dispute between the appellant mill and its workmen relating to the payment of gratuity, the Industrial Tribunal framed a gratuity scheme and gave the necessary guidelines for its implementation. Special leave was granted to the appellant by this Court on the limited question whether the correct principles on which gratuity should be payable had been followed in this case or not. Since the making of the award the Payment of Gratuity Act, 1972 was passed, which, by s. 4(5) gave an option to the workers to choose between the gratuity scheme under the award and the one under the statute. The workers, however, did not put in their appearance in this Court.

It was contended on behalf of the appellant that the qualifying period of service for earning gratuity was ten years and for calculating the amount of gratuity basic wages without adding dearness allowance should be the basis as laid down by some decisions of this Court and the tribunal was wrong in holding 5 years as the qualifying service and basic wages and dearness allowance as the basis for calculating the amount of gratuity.

HELD: There is nothing fundamentally flawsome in the 5-year period being fixed as the qualifying service. The Tribunal was realistic in fixing the period of eligible qualifying service as continUoUs service counted with reference to the completed years as defined in s. 2(c) of the Act. [100 C&F]

(1) In some cases, this Court highlighted the view that the determination of gratuity is not based on any definite rules and each case must depend upon the prosperity of the concern, the needs of the workmen and the prevailing economic conditions examined in the light of the auxiliary benefits which the workmen may get on determination of employment. It was also held that stability of the concern, profits made 'in the past, the future prospects and capacity should be the relevant circumstances which the Tribunal should take into account in giving its award. Awards are' given on circumstances peculiar to each dispute and the Tribunals are, to a large extent, free from the restrictions of technical considerations imposed on courts. In short, the approach of the Tribunal should be what may be described as its legal hunch or horse-sense. Cases like Gaziabad Engineering Co. accept the position that. while gratuity is usually related to the basic wage, a departure may be made by relating it to the consolidated wage if there be some strong evidence or exceptional circumstances justifying that course. The real reason why some cases like British Paints required a qualifying period of 10 years was that a longer minimum period for earning gratuity in the case of voluntary retirement or resignation would ensure that workmen did not leave one concern for another after putting in the short minimum service qualifying for gratuity. But current conditions must control the Tribunal's conscience in finalizing the terms of the gratuity scheme. Colossal unemployment at all levels of workers in the country today means that a worker will not leave his employment merely because he has qualified himself for gratuity In an economic situation where there is a glut of labour in the market and unemployment stares the working class in the face it is theoretical to contend that employees will hop from industry to industry unless the qualifying period for earning gratuity is raised to 10 years. [98 H; 99D; lOO A, D, E, F.]

(2) Wages will mean and include basic wages and dearness allowance and nothing else. This corresponds to s. 2(s) of the Act. Some of the decisions refer to basic wages and

others to consolidated wages as the foundation for
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computation of gratuity. These are matters of discretion and the "feel" of the circumstances prevalent in the industry by the Tribunal and, unless it has gone wrong in the exercise of its discretion the award should stand. In the Payment of Gratuity Act it is not basic wages but gross wages inclusive of dearness allowance which had been taken as the basis. [101 B; 100 G-H]

Delhi Cloth & General Mills Co. v. Workmen & Ors. [1969] 2 SCR 307, British Paints [1969] 2 SCR 523, Hydro-Engineers [1969] 1 SCR 1.56, Hindustan Antibiotics, [1967] 1 SCR 672, Bengal Chemical & Pharamaceutical Works Ltd., [1959] Suppl. 2 SCR 136, Gaziabad Engineering Co., [1970] 2 SCR 622 and Calcutta Insurance Co. Ltd. [1967] 2 SCR 596 referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1539 of 1970.

(Appeal by Special Leave from the Award dated 1/31-10-69 of the Industrial Tribunal Allahabad in Ref. No. 20/58 'published in the U.P. Gazette dated the 10th Jan. 1970). I. N. Shroff, for the appellant.

P.H. Parekh, for the respondent.

The Judgment of the Court was delivered by. KRISHNA IYER, J.--A dispute between the appellant mill (the Strawboard Manufacturing Company Ltd) and its workmen, regarding a scheme of gratuity, was referred to the Indus- trial Tribunal, way back in February 1958, and, long 19 years later, this Court is pronouncing on the validity of the award made by the Tribunal in favour of the workmen:

> Small wonder the respondent workmen, after this tiring and traumatic tantalization, have not turned up to argue their cause, although Shri Parekh, as amicus curiae, has filled the gap. Such an unhappy and not infrequent phenomenon as considerable delay in adjudication and implementation is destructive of industrial peace and productive of disen- chantment with labour jurisprudence. Naturally, even constitutional provisions and governmental decisions about labour and concern for its welfare cease to achieve the desired goals when the legal process limps and lingers and rights turn illusory' when remedies prove elusive. The life of rights is remedies and a jurisprudence of ready reliefs alone can inhibit the weaker numbers of our land asking the disturbing question: 'Is Law Dead ?'. Dicey wrote long ago:
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> "The saw ubi jus ibi remedium, becomes from this point of view something much more important than a mere tautological proposi- tion. In its bearing upon

> constitutional law, it means that the Englishmen whose labors gradually formed the complicated set of laws and institutions which we call the Constitu- tion, fixed their minds far more intently on providing remedies for the enforcement of particular rights or for averting definite wrongs, than upon any declarations of the Rights of Man or Englishmen."

(Jurisprudence of Remedies: University of Pennsylvania Law Review, Vol. 117, Nov. 1968. p.l, 16).

It is more than rhetoric to say that courts belong to the people.

'Judges occupy the public's bench of justice. They implement the public's sense of justice'. If the Courts are the fulcrum of the justice-system, there is a strong case for the reform of Court methodology and bestowal of atten- tion on efficient management of judicial administration. Otherwise, the courts may be so overloaded or so mismanaged that they grind to a halt and citizens' exercise of their rights discouraged or frustrated. The vital aspects of the jurisprudence of remedies include speeding the pace o[litigation 'from the cradle to the grave'. We are reluc- tant to make these self-critical observation's about putting our house in order, but when the consumers of justice like workmen lose interest in the judicial process and are ab- sent, legislative unawareness of research and development as to the needs of courts and simplification and acceleration of the judicative apparatus become matters of national concern. Law's delays are in some measure, caused by legis- lative inaction in ,making competent, radical change in the procedural laws and sufficient financing and modernising of the justice system as a high priority programme. The chequered career of this lis and its zigzag climb up the precipice of justice contextually deserves brief narra- tion. The order of reference was made early in 1958, the usual processual exercise before the Tribunal resulted in an award on May 1, 1958 where the tribunal refused the relief bearing on gratuity. The disappointed workers challenged the award before the High Court which set it aside in Novem- ber 1963--too long a hibernation in the High Court for a labour dispute where prompt adjudication is the essence of industrial peace. Anyway, when the case came back to the tribunal, its decision took another six inscrutable years and, on October 31, 1969 a fresh award was made whereunder the tribunal framed a gratuity scheme and gave the guide- lines thereof. This time the appellant mill straight came to the Supreme Court with the present appeal for which special leave was granted in a limited way, in the sense that it was confined to the question 'whether the correct principles on which' gratuity should be payable have been followed in this case or not. It is a fact, though unfortu- nate, that this labour litigation arrived in this Court in 1970 but its final chapter is being written by this judgment only in 1977. And it is noteworthy that the facts are brief, the legal issues small, the arguments brief and this judgment, but for general observations and traditional reference to rulings cited at the bar, could have been judiciously abbreviated.

The main battle at the bar has been over the correct principles in a scheme of gratuity for factory workers and further whether those principles have been departed from under the award assailed by the appellant. We may mention. at this stage, that the Parliament has enacted the Payment of Gratuity Act, 1972, which has come into force with effect from September 16, 1972. Section 4(5) of -the said Act gives an option to the workers to choose between the gratui- ty scheme under the award and the one under the statute. Had the workers been represented before this Court it might

have been possible for us finally to close this controversy or even produce a reasonable solution by discussion and negotiation and persuade them to opt for one or the other scheme. Early finality, credible certainty and mutually assented solutions, are the finer processes of conflict-resolution-a pursuit which baffles us here because of labour's absence. All that we can do, therefore, is to adjudicate upon the correctness or otherwise of the princi- ples which have gone into the gratuity scheme prepared by the tribunal in the light of the rulings of this Court and the canons of industrial law.

We now proceed to itemise the grounds of attack levelled by Shri I.N. Shroff for the appellant .and assay their worth in the light of the submissions in defence of the award made by Shri P.H. Parekh appearing as amicus curiae. Even here we may place on record our appreciation of Shri Parekh's services to the Court and the fairness of Shri Shroff in making his points on behalf of the appelant. The only dispute, which has ramified into a few issues, relates to the gratuity scheme the tribunal has framed. Shri Parekh is right in drawing our attention in limine to the financial. insignificance, for the appellant, of the subject matter of this lis and the consequential disinclina- tion we must display to disturb the award. He has urged that the total annual impact on the industry by the imple- mentation of the award is of ,the order of Rs. 3,000/- to a substantial part of which the management has no objection. What is more, the appellant is prosperous enough to distrib- ute dividends around 20% over the years. Further, since 1972 an obligatory statutory gratuity scheme has come into force with the result that the economic consequences of this litigation, even if the appellant loses are marginal or nil. This makes us ponder whether, in matters of less than grave moment, this court should, as part of high judicial policy to arrest the tidal flow of unsubstantial litigation, turn away at the portals those who invoke our jurisdiction to examine every case where some legal principle has been wrongly decided, regardless of a sense of 'summit court' perspective and the rare use of its reserve power so as to preempt a docket explosion and the injustice of delayed justice and invest the High Courts and high tribunals with final legal wisdom. The amplitude of Art. 136 is ,meant more for exceptional situations than to serve as hospitable basket to receive all challenges to seemingly erroneous judgments in the country.

As stated earlier, we are confronted by an industrial dispute and are called upon .to apply the principles of industrial jurisprudence with its primary concern for peace among the parties, contentment of the worker's, the end product being increased production informed by distributive justice. Law, especially Labour Law, is the art of economic order sustained by social justice. It aims at pragmatic success, but is guided by value-realities. It believes in relativity and rejects absolutes. The recent constitutional amendment (Art. 43A) which emphasizes the workers' role in production as partners in the process, read in the light of the earlier accent on workers' rights and social justice, gives a new status and sensitivity to industrial jurispru- dence in our 'socialist republic'. This social philosophy must inform interpretation and adjudication, a caveat needed because precedents become time-barred when societal ethos progresses. We are not called upon to interpret an Act since, in this area of law, the Payment of Gratuity Act came in on a later date. Judge-made law rules the roost. Even so, are we fattered by inflexible norms halLowed by dated decisions ? Not in this jurisdiction. 'The golden rule' in a rapidly changing system, 'is that there are no golden rules'. We should be guided by realistic judicial responses to societal problems, against the back drop of the new, radical values implied in 'social justice' to labour, the production backbone of the nation,

adjusted to the environs of the particular industry and its economics and kindered circumstances. The dynamics of labour law, rather than the bonded of old-time case-law answers questions of current justice. Cardozo had cautioned in his 'The Nature of the Judicial Process':

> "That court best serves the law which recognizes that the rules of law which grew up on a remote generation may, in the fullness of experience, by found to serve another genera- tion badly, and which discards the old rule when it finds that another rule of law repre- sents what should be according to the estab- lished and settled judgment of society, and no considerable property rights have become vested in reliance upon the old rule. It is thus great writers upon the common law have discovered the source and method of its growth, and in its growth found its health and life. It is not and i, should not be stationary. Change of this character should not be left to the legislature. If judges have woefully misinterpreted the mores of their day, or if the mores of their day are no longer those of ours, they ought not to tie, in helpless submission, the hands of their successors."

(Cardozo: The Nature of the Judicial Process: Yale University Press pp. 151-152).

Indeed, we are stating no new proposition since the profu- sion of decisions assiduously presented before us states, in sum, that each case has to be decided; on the updated justice of the fact-situations therein and the only law that we can reasonably discern from the rUlings we have read is that there is no law but only justice, dependent on a varie- ty of socio-economic variables, that the tribunal's award, if his performance is not perverse in the process or the end product. must be left well alone by this Court even. if some juristic failing or factual peccadillo can be discovered. A quest for error and an inclination for correction, frequent- ly exercised by higher Courts will do double injury. It will take away the necessary initiative of the tribunal to produce satisfactory results. It will delay the finality of industrial adjudication and thereby defeat the paramount purpose of early re-adjustment. Judicial decentralization claims its price and it must be paid by ignoring errors less than grave. Once this perspective is clear, our non-inter- ference with this award is just. Moreover, an industrial tribunal must act on a legal horse sense, rather than on juristic abstractions, on rugged fairness rather than on refined legalisms. It is shop-floor justice. not five-star loveliness. The weaker qualify for protective order, in the over-all view of the matter.

Gratuity for workers is no longer a gift but a right. It is a vague, humanitarian expression of distributive justice to partners in production for long, meritorious service. We have, therefore, adopt a broad and generous approach to the problems posed before us by Shri Shroff without being mechanistically precedent-bound or finically looked into evidence.

Speaking generally, Shri Shroff focussed his fire-power firstly-on the qualifying period of five years for earning gratuity as against ten years sanctified in some earlier rulings and, secondly, on the basic wage, as contrasted with the 'consolidated' wage being treated as the base for the computation of gratuity. He did cite half-a-dozen of more cases of this court in support which, on closer scrutiny and studied in the light of other citations Shri Parekh emphasized, stand neutralized.

The Tribunal has itself referred to many rulings of this Court, noted the features of the industry in question, the high dividends and 'the low wages and reached a via media which we may regard as a prudent judicial resolution of the simple conflict. The flavour of the social milleu, the raw realities of industrial conditions and the locale and life- style out there, are sensed by the tribunal better than a distant court of last resort primarily specialising in declaration of law. So we are loathe to upset the scheme unless the tribunal is grievously or egregiously in error. Shri Shroff staked his case on case-law alone and culled passages which upheld basic wages as basic and ten-year service for eligibility. Even here, we must mention that the basic wage at the relevant time (revised subsequently) was in the miserable range of Rs. 20/- per mensem and to calcu- late gratuity on this pitiful rate, when after 'long. and meritorious service' the worker bids farewell to his labour life in the industry, is to be callous to basic justice. The Human Today cannot be held captive by the less-than-human yesterday in a crucial area of social jus- tice. So viewed, we are constrained to negative the two preliminary contentions urged by Shri Shroff while agreeing with him on the smaller points of clarification sought. We reproduce, at this stage, the decretal part of the award:

> "The award, therefore, is that the employers should be required to frame a scheme of gratuity for their workmen. The details of the gratuity scheme are as under:
>
> (a)On death of a workman while 15 days wages for each in continous service or on att- completed year of service ainment of the age of superann- subject to a maximum of uation or on retirement or 15 months.

resignation due to continued ill health or on being incapi-

citated,

(b) On voluntary abandoment 15 days wages for each os service by a workman completaed year of cont- in case not falling under inious service subject

(a) or termination of to the condition that no service by employers gratuity will be payable on a total service of less than 5 years ,but this condition will not apply in case of resign-

ation or discharge on the grounds of physical disa-

blement or incapacity

(i) For the purposes of gratuity of a period of six months or over shall be reckoned as 'one year' while a period less than 6 months will be ignored.

(ii) Gratuity shall be payable to the nominee of the workman in case of his death or to his legal heirs, if no one has been nominated by the workman in this behalf.

(iii) 'Wages' shall mean and include basic wages and dear food allowance but shall not include bonus.

(iv) Gratuity will not be. allowed to a work- man in case of a serious misconduct committed by him such as insubordination, acts involving moral turpitude, etc. In case of damage to the property of employers or financial loss, the a,mount to the extent of loss shall be liable to be deducted from the amount of the gratuity.

(v) The basis of payment of gratuity shall be average earnings of a workman during the last three years."

One of the leading cases both sides referred to is the Delhi Cloth & General Mills Co., v. Workmen & Ors.(1) In this decision the court did make the point:

> "That gratuity is not in its present day concept merely a gift made by the employer in his own discretion. The workmen have in course of time acquired a right to gratuity on determination of employment provided the employer can afford, having regard to his financial conditions to pay it."

Shah, J. speaking for the Court, also empha- sized what we have already adverted to:

> "We consider it right to observe that in adjudication of industrial disputes settled legal principles have little play; the awards made by industrial tribunals are often the result of ad hoc determination of dispnted questions, and each determination for.as a precedent for determination of other dis- pute. An attempt to search for principle from the law built up on those precedents is a futile exercise. To the (1) [1969] 2 S.C.R. 307.

Courts accustomed to apply settled principles to facts determined by the application of the judicial process, an essay into the unsur- veyed expenses of the law of industrial rela- tions with neither a compass.nor a guide, but only the pillars of precedents is a disheart- ening experience. The Constitution has howev- er invested this Court with the power to sit in appeal over the awards of Industrial Tribu- nals which are, it is said, rounded on the somewhat hazy background of maintenance of industrial peace, which secures the prosperity of the industry and the improvement of the conditions of workmen employed in the indus- try, and in the absence of principles, prece- dents may have to be adopted as guides--some- what reluctantly to. secure some reasonable degree of uniformity of harmony in the proc- ess."

Several decisions which were referred to at the bar have been touched upon in the above case. At the end of the consideration of these cases, the Court made two pregnant observations which we extract:

> "We may repeat that in .matters relat- ing to the grant of gratuity and even general- ly in the settlement of disputes arising out of industrial relations, there are no fixed principles, on the application of which the problems arising before the Tribunal or the Courts may be determined and often precedents of cases determined ad hoc are utilised to build up claims or to resist them. It would in the circumstances be futile to attempt to reduce the grounds of the decisions given by the Industrial Tribunals, the

> Labour Appel- late Tribunals and the High Courts to the dimensions of any recognised principle."

x x x x x

"It is not easy to extract any

> principle from these cases; as precedents they are conflicting."

These cautionary signals guide us too in the instant case. It is true that on account of the peculiar circumstances affecting the textile industry in the whole country the Court felt that the Tribunal was in error in relating gratu- ity to the consolidated wage in. stead of the basic wage. The emphasis in the ruling is on the facts and circumstances affecting the particular industry and the promotion of industrial peace in that field. Rightly, if we may say so with respect, did the Court high-light the view that deter- mination of gratuity is hot based on any definite rules and each case must depend upon the prosperity of the concern, needs of the work, men and the prevailing economic condi- tions, examined in the light of the auxiliary benefits which the workmen may get on determination of employment. In short, the core of the matter is the totally of the circumstances and the stage of evolution of industrial relations at a given time What held good a decade ago may be given the go by years later.

Another leading case on the question of gratuity is the British Paints(1) where, after referring to the special features of the particular industry. and the other benefit schemes enjoyed by the employees, the Court referred to May & Baker where basic wages were treated as the basis and British India Corporation where 'gross salary i.e., basic wages plus dearness allowance' was held to be the basis. It may be noted that in this case the minimum qualifying serv- ice for gratuity was held to be 5 years except in cases where termination resulted from resignation by the employee. In Hydro-Engineers(2) this Court apparently upheld the contentions now urged before us by Shri Shroff but stressed that no hard and fast rule could be laid down and each case must be decided on its own circumstances.

In Hindustan Antibiotics(3), again, this Court high- lighted the relevant circumstances upon which the discre- tion of the Tribunal could play, viz., the stability of the concern, the profits made in the past, the future prospects and capacity etc. This Court declined to disturb the gratu- ity scheme in that case even though the wages which formed the basis of the gratuity included dearness allowance. In Bengal Chemical & Pharmaceutical Works Ltd., Calcut- ta(4) a Bench of this Court entered the caveat which we have underscored in the earlier part of this judgment that:

> "a free and liberal exercise of the power under Art. 136 may materially affect the fundamental basis of such decisions, namely, quick solution to such disputes to achieve industrial peace. Though Art. 136 is couched in widest terms, it is necessary for this Court to exercise its discretionary jurisdic- tion only in cases where awards are made in violation of the principles of natural jus- tice, causing substantial and grave injustice to parties or raises an important principle of industrial law requiring elucidation and final decision by this Court and discloses such other exceptional or

special circumstances which merit the consideration of this Court."

It was also mentioned, what is not oft remembered when interfering with awards, that the Industrial Disputes Act is "intended to be a self-contained one and it seeks to achieve social justice on the basis of collective bargaining, conciliation and arbitration. Awards are given on circum- stances peculiar to each dispute and the tribunals are, to a large extent, free from the restrictions of technical considerations imposed on courts."

(1) [1969] 2 S.C.R. 523.

(2) [1969] 1 S.C.R. 156.

(3) [1967] 1 S.C.R. 672.

(4) [1959] Suppl. 2. S.C.R. 136.

This approach is what we earlier described as the Tribu- nal's legal hunch or horse sense. Even Gqziabad Engineer- ing Co.,(1) on which Shri Shroff heavily relied, accepts the position that while gratuity is usually related to the basic wage, a departure by relating it to the consolidated wage may be made if there be some strong evidence or excep- tional circumstance justifying that course.

Calcutta Insurance Co. Ltd. (2) also placed accent on the practical approach in industrial adjudication and did not interfere with the qualifying service of 5 years except in the case of resignation by the employee where the quali- fying period was raised to 10 years.

This survey of the cosmos of case-law can expand, but no service will be rendered by that exercise. All that we need say is that there is nothing fundamentally flawsome in the 5-year period being fixed as qualifying service. The real reason why some cases like British Paints required a qualifying period of 10 years was that a longer minimum period for earning gratuity in the case of voluntary retire- ment or resignation would ensure that workmen do not leave one concern for another after putting in the short minimum service qualifying for gratuity.

We think that current conditions must control the tribu- nal's conscience in finalizing the terms of the gratuity scheme. Taking things as they are, in our country presently there is unemployment at the level of workers--that being the category we are concerned with. Colossal unemployment means that the worker will not leave his employment merely because he has qualified himself for gratuity. In an econo, mic situation where there is a glut of labour in the market and unemployment stares the working class in the face it is theoretical to contend that employees will hop from industry to industry unless the qualifying period for earning gratui- ty is raised to 10 years. The tribunal was realistic in fixing 5 years as the period of eligibility. Our industrial realities do not provide for easy mobility of labour. What is more, the sense of national consciousness in this field is reflected in the Payment of Gratuity Act which fixes a period of 5 years as the qualify- ing period for earning gratuity.

Decisions have been brought to our notice some of which refer to basic wages and others to consolidated wages as the foundation for computation of gratuity. These are matters of discretion and the "feel" of the circumstances prevalent in the industry by the Tribunal and, unless it has gone haywire in the exercise of its discretion the award should stand. We see that in the Payment of Gratuity Act also, not basic wages but 'gross wages inclusive of dearness allowance, have been taken as the basis. This, incidental- ly, reflects the industrial sense in the country which has been crystallised into legislation.

(1) [1970] 1 S.C.R. 622.

(2)[1967] 2 S.C.R. 596.

All things considered, we are disinclined to alter the award on the two critical issues on which it was challenged. However, there are certain minor clarifications which will eliminate ambiguity and, on that both sides are agreed. We clarify that wages will mean and include basic wages and dearness allowance and nothing else. This corresponds to Sec. 2(s) of the Act. Likewise, we declare that qualify- ing service is continuous service (counted with reference to completed years) as defined in Sec. 2(c). We hold that the award will operate as directed therein i.e. from the date of reference of the dispute. Both sides agree, in their state- ment of the case, that in clause (a) of the award the ex- pression due to continued ill-health or on being incapaci- tated' governs only resignation although we feel on compas- sionate grounds it should govern both situations. The ambi- guity must be resolved in favour of the workers. In regard to the other conflicts of construction possible, as set out in grounds 7 and 8 of the appellant's statement of case, we resolve them in favour Of the workmen, abandonment of serv- ice being too recondite and the amount involved too trivial for variation by this Court.

Shri I.N. Shroff fairly stated that the Court may make an order regarding costs. We direct that the appellant do pay the respondents costs which we quantify at Rs. 2000/-. Out of this sum. Rs. 1000/will be paid direct to Shri Parekh who has assisted the Court on behalf of the workers and the balance of Rs. 1000/- shall be drawn by the present Presi- dent of the Respondent Union. Our parting thought is that negotiating settlements should be vigorously and systemati- cally pursued even by tribunals since litigation, escalat- ing. from deck to deck upto this Court, defeats both, whoev- er wins or loses. This must be a sobering influence on Labour and Management and agencies of conflictresolutions. That is a legal beacon that can brighten the dark tunnel of industrial conflict and promote national production cheered by shared wealth.

P.B.R.