Babulal Nagar And Ors vs Shree Synthetics Ltd. & Ors on 4 May, 1984

Equivalent citations: 1984 AIR 1164, 1984 SCR (3) 772, AIR 1984 SUPREME COURT 1164, (1985) JAB LJ 229, 1984 UJ (SC) 755, 1984 SCC (L&S) 594, (1984) 2 LAB LN 470, (1984) 2 SERVLJ 67

Author: D.A. Desai

Bench: D.A. Desai, O. Chinnappa Reddy, A. Varadarajan

PETITIONER:
BABULAL NAGAR AND ORS.

Vs.

RESPONDENT:
SHREE SYNTHETICS LTD. & ORS.

DATE OF JUDGMENT04/05/1984

BENCH:
DESAI, D.A.
BENCH:
DESAI, D.A.
REDDY, O. CHINNAPPA (J)
VARADARAJAN, A. (J)

CITATION:
1984 AIR 1164 1984 SCR (3) 772
1984 SCALE (1)884

ACT:
Madhya Pradesh Industrial Relations Act 1960-Sections 61 and 66-Order of dismissal or removal from service made against an employee-Jurisdiction of Labour Court to interfere in an application under Section 61-Labour Court entitled to examine the propriety or impropriety of the order-Jurisdiction of Industrial Court to interfere with the order of Labour Court-Industrial Court can come to a different conclusion on same set of facts.
Words and Phrases-"As it thanks fit"-Legality"-Meaning of-Madhya Pradesh Industrial Relations Act, 1960 , section 66(1).

HEADNOTE:

The appellants were workmen employee, of the first respondent company. It was alleged that they assaulted another workman as a result of which he sustained bleeding injuries on his head. A chargesheet was drawn up by the management was served on the appellants, which was followed by a composite domestic enquiry at the end of which all of them were dismissed from service.

The appellants moved five different applications before the Labour Court questioning the validity of the domestic enquiry as also the legality and propriety of the orders terminating their services. The Labour Court finding that the domestic enquiry was held according to the relevant rules, and that there was evidence in support of the alleged misconduct, held that the management was justified in imposing the penalty of dismissal from service.

The appellants filed five Separate revision petitions before the Industrial Court under sections 66 and 67 of the Madhya Pradesh Industrial Relations Act, 1960. The President of the Industrial Court finding that the entire approach of the Inquiry Officer-Manager in arriving at the findings of mis conduct in the domestic enquiry appeared to be biased and unfair and that the conclusions neither fair nor reasonable, held that the dismissal could not be sustained. All the revision petitions were therefore allowed, and the orders of the Labour Court dismissing the applications were set aside, and

773

the matters were remanded for a fresh decision after giving the parties due opportunity to adduce evidence in respect of the alleged misconduct.

The respondent-company filed writ petitions before the High Court questioning the correctness of the order of the Industrial Court and a Division Bench held that the Industrial Court exceeded its jurisdiction by interfering with the findings of facts, and as this was an error apparent on the face of the award, quashed the decision of the Industrial Court.

Allowing the appeals to this Court,

^

HELD: 1. (i) Times without number, it has been pointed out that Art. 226 is a device to secure and advance justice and not otherwise. [787E]

Sadhu Ram v. Delhi Transport Corporation, [1983] 4 SCC 156, referred to.

(ii) ordinarily, the Courts exercising extraordinary jurisdiction is loathe to interfere with an order remanding the matter to the authority directed to investigate facts. [787F]

D.P. Maheshwari v. Delhi Administration and Ors., [1983] 4 SCC 293, referred to.

In the instant case, the Industrial Court had made an order of remand. The High Court was not justified in interfering with the same. By this uncalled for

interference, it has merely prolonged the agony of the unemployed workmen and permitted the jurisdiction of the High Court under Art. 226 to he exploited by those who can well afford to writ to the detriment of those who can ill-afford to wait by dragging the latter from court to court for adjudication of peripheral issues more vital to them. [787F-G]

2. (i) Dismissal from a service is an order made under the relevant standing orders. A relief against such an order can be obtained by making an application under section 61 to the Labour Court. Against the order made by the Labour Court under section 61, a revision would lie under section 66 to the Industrial Court. [779H; 780C]

(ii) If and when an application under section 61 is made the Labour Court will have jurisdiction to decide the legality and propriety of the order of dismissal or removal from service. When jurisdiction is conferred upon the Labour Court, not only to examine the legality of the order as also the propriety of the order, the Labour Court can in exercise of the jurisdiction examine the propriety or impropriety of the order. [781C]

3. (i) The main part of Sec. 66 clearly spells out the jurisdiction of the Industrial Court to pass any order in reference to the case brought before it as it thinks fit'. The expression 'as it thinks fit; confers a very
774
wide jurisdiction enabling it to take an entirely different view on the same set of facts: The expression 'as it thinks fit' has the same connotation, unless the context otherwise indicates 'as he deems fit'. [785B-C]

Raja Ram Mahadev Paranjype and ors. v. Aba Maruti Mali and ors., [1962] Suppl. 1 SCR 739; referred to.

(ii) Sub-cl. (c) of the first proviso to Section 66 (1) will permit the Industrial Court to interfere with the order made by the Labour Court, if the Labour Court has acted with material irregularity in disposal of the dispute before it. If the finding recorded by the Labour Court is such to which no reasonable man can arrive, the Industrial Court in exercise of its revisional jurisdiction would be entitled to interfere even if patent jurisdictional error is not pointed out. [785E-F]

4. The expression propriety is variously understood; one meaning assigned to it being 'justice'. Amongst various shades of meaning assigned to the expression, the dictionary sets out; 'fitness, appropriateness; aptitude; suitability etc.' as some of them. [781D-E]

5. If the justice or the justness in relation to a legal proceeding where evidence is led is questioned and the authority is conferred with jurisdiction to examine the propriety of the order or decision that authority will have the same jurisdiction as the original authority to come to a different conclusion on the same set of facts. If any other view is taken, the expression 'propriety' would lose all

significance. The expression 'legality and propriety' has been used in various statutes where appellate or revisional jurisdiction is conferred upon a superior authority. [781E-G]

Raman and Raman Ltd. v. The State of Madras and Anr., [1956] S.C.R. 256, Moti Ram v. Suraj Bhan and Ors., [1960] 2 S.C.R. 896, Awdesh Kumar Bhatnagar v. The Gwalior Rayon Silk Mfg. (Weaving) Co. Ltd and Anr. [1972] Lab. and IC. 842; referred to.

In the instant case, the Industrial Court while hearing the revision petitions found that the petitioners were trade-union workers and that three of them were office-bearers of the union, and that a material place of evidence clearly pointing to the contrary was wholly overlooked by the inquiry officer. The Industrial Court also pointed out that report (Ex D/18) purporting to have been made by the assaulted worker to the factory Manager on the day following the date of occurrence when properly scanned appeared to be highly suspicious evidence because: 'it was not dated and did not bear the endorsement of the officer to whom it was presented. After referring to other infirmities in the approach of the Labour Court, the Industrial Court concluded that the entire approach of the Manager in arriving at the findings of misconduct in his enquiry 'appeared to be biased and unfair', and 'the conclusions neither fair nor reasonable and any order of dismissal based thereon could not be sustained.' The Industrial Court was, therefore perfectly justified in interfering with the order of the Labour Court. It merely set aside the award

775

of the Labour Court and did not proceed to re-appraise the evidence but remitted the case to the Labour Court for fresh decision. It was thus an eminently just order. The High Court however, observed that the Labour Court could only interfere with the decision of the inquiry officer if the findings arrived at were perverse. The High Court completely missed the ambit of jurisdiction of the Labour Court in that it had the jurisdiction to decide the legality and propriety of the order. Impropriety as converse of propriety cannot be equated with perversity. The High Court wholly, misread the relevant provision and interfered with the decision of the Industrial Court which was preeminently just and within the four corners of its jurisdiction. [785G; 786A-G; 787A-D]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1891- 1895 of 1982.

Appeals by Special leave from the Judgment and order dated the 11th September, 1979 of the Madhya Pradesh High Court in Misc. Petitions Nos; 77 to 81 of 1979.

J. Ramamurthy and Ms. R. Vaigai for the Appellants. G.B. Pal, S.K. Gambhir, Ashok Mahajan and Ms. Sunita Kripalani for the Respondents.

The Judgment of the Court was delivered by DESAI, J. Nothing appears more well settled than that the extraordinary jurisdiction under Art. 226 conferred on the High Court was a weapon forged to overreach injustice and secure and advance justice. When therefore, this extraordinary power is used to defeat justice and to promote technicality not only its raison d'etre is violated but it becomes a handy instrument for those to whom litigation cost is a luxury enjoyed at the cost of others and employed to exhaust and harass an unequal opponent. Sad as it may appear that unfortunate situation emerges in this appeal.

The first respondent-Shree Synthetics Ltd. ('respondent' for short) appears to be a company governed by the Companies Act, 1956. It has set up a factory at Ujjain where it manufactures polyester fibre. Appellants in each of these appeals were the workmen of the respondent. There is a trade union of the workmen employed by the respondent of which at the relevant time three out of the five appellants in this group of appeals were office bearers. Babulal Nagar was the President of the Union: Babulal Jaiswal was the General Secretary and Ramesh Chandra was the Secretary.

According to the respondents on June 3, 1975 around 11.10 P. M. One Verma a workman of the respondent on the shift being over went-out of the compound gate and took his seat i l a tempo when Babulal Nagar and Babulal Jaiswal along with three other appellant approached him and asked Verma to alight from the tempo as they wanted to talk to him. On Verma's disinclination to come out of. the vehicle, it was alleged that Babulal Nagar and Babulal Jaiswal pulled Verma out of the vehicle and all the appellants assaulted him with fists and kicks and felled him down as a result of which Verma sustained bleeding injuries on his head. On hearing the commotion, staff of the security department intervened and rescued him.

Setting out these allegations a charge-sheet was drawn- up and served on the five appellants followed by a composite domestic enquiry at the end of which all of them were dismissed from service.

The appellants moved five different applications before the labour Court questioning the validity of the domestic enquiry held against them as also the legality and propriety of the orders terminating their services. The Labour Court was of the opinion that the domestic enquiry was held according to the relevant rules and as there was evidence in support of the alleged misconduct the management was justified in imposing the penalty of dismissal from service and accordingly all the five applications were dismissed.

The appellants filed five separate revision petitions before the industrial Court under Secs. 66 and 67 of the Madhya Pradesh Industrial Relations Act, 1950 Act for short). All the five revision petitions were heard by the President of the Industrial Court at Indore who was of the opinion that the entire approach of the inquiry officer- Manager in arriving at the findings of misconduct in his enquiry appear to be biased and unfair and that the conclusions are neither fair nor reasonable and as such the dismissal cannot be sustained on the basis thereof Accordingly he, by a common judgment dated

February 26, 1979, allowed all the revision petitions and set aside the orders of the Labour Court dismissing the applications and remanded the matters to the Labour Court for a fresh decision after giving both the parties due opportunity to adduce evidence in respect of the alleged misconduct.

The respondent moved five separate misc. petitions in the High Court of Madhya Pradesh, Jabalpur at Indore under Arts. 226 and 227 of the Constitution questioning the correctness of the decision of the Industrial Court. A Division Bench of the High Court held that the Industrial Court exceeded its jurisdiction by interfering with the findings of facts and this was ill error apparent on the face of the award. Accordingly, it issued a writ of certiorari and quashed the decision of the Industrial Court. Hence these five civil appeals by special leave.

Conditions of service in respect of the employees employed by the respondent are governed by the Certified standing orders. S. O. 12 (f) which was relied upon by the respondent for imputing mis conduct to the appellants reads as under:

"12. Disciplinary action for misconduct (l) The following acts or omissions on the part of an employee shall amount to a major misconduct:

(a) to (e) xx xx xx

(f) drunkenness, riotous or disorderly behaviour, during working hours at the undertaking or conduct endangering the life or safety of any person, intimidation, physical duress, or any act subversive of discipline.

The allegation in the charge-sheet on the basis of which the domestic enquiry was held reads as under: F "Babulal was on duty on 3.6.1975 in the B Shift from 3 p. m. to 11 p. m. At about 8.15 p.m. when Shri Satya Prakash Verma, a Telephone Operator and Shri K. C. Bagdi, Shift-time keeper were coming out of the canteen after taking their meals, Babulal Nagar and Babulal Jaiswal were sitting in the lawn in front of the canteen. At that time, Babulal Jaiswal asked Babulal Nagar to explain to Verma the whole position in Hindi. There upon Babulal Nagar went to Bagdi and Verma and uttered the following meaningful words:- You are just a child now. You do not understand anything; if you interfere in this, you will have to pay a heavy price, (true translation) Verma gave no reply and both Verma and Bagdi went into the office. Thereafter, at 9.15 p.m. A. K. Awasthi and Rajendra Jain went to the canteen to take their meals. At that time both the petitioners namely, Babulal Nagar and Babulal Jaiswal were present there. Babulal Nagar took out a false token and challenged that it may be checked by any security official. Rajendra Jain thereupon said that he was not in his uniform. At that time, Babulal Jaiswal uttered some filthy words and thereafter both Babulal Nagar and Babulal Jaiswal left the canteen uttering filthy abuses.

At 9.30 p.m. Babulal Nagar spoke to Verma on telephone that he should come out of the Plant as he wanted to talk to him. Verma, therefore, come out in the lawn from his office where both Babulal Nagar and Babulal Jaiswal were present. At that time, Babulal Jaiswal said to Verma as under:-

"You have put end to our movement. In future things will not be right, if you interfere with us, and threatened, that we shall see at 11 O' clock outside the gate. (true translation) After the shift was over at about 11.10 p m. whom Verma went out of the gate and took his seat in the tempo. Babulal Nagar and Babulal Jaiswal along with the other three petitioners went to him and asked Verma to come out of the tempo as they wanted to talk to him. Verma replied that they could talk to him there. Thereupon both Babulal Nagar and Babulal Jaiswal pulled Verma out of the tempo and all the petitioners assaulted Verma with fists and kicks and felled him down as a result of which he sustained a bleeding injury on his head. On hearing the cresc of Verma members of the security Department rescued him and took him inside the gate.

Apart from anything else, a very serious question touching upon the jurisdiction of the Disciplinary Authority to hold an enquiry on the allegation that S.O. 12 (1) (f) was violated would arise before the Labour Court more particularly in view of the recent decision of this Court in M/s Glaxo Laboratories (I) Ltd. v. Presiding officer, Labour Court, Meerut & Ors. wherein S. O. 22 applicable to Glaxo Laboratories (I) Ltd. wh ch is in pari materia with the S. O. 12 (1) (f) came up for construction of this Court. After an exhaustive review of the various decisions:

on the subject, this Court after repelling the construction canvassed on behalf: of the appellant in that case that such acts as drunkenness, riotous or disorderly behaviour are per se misconduct uncomplicated with time place content and wherever committed would constitute misconduct, held that the various acts of misconduct therein set out would be misconduct for the purpose of the relevant standing orders, if committed within the premises of the establishment or in the vicinity thereof. The Court further held that what constitutes establishment or its vicinity would depend upon the facts and circumstances of each case. But we shall not finally pronounce on this point as the industrial Court had remanded the matter to the Labour Court which has jurisdiction to examine this case and we are inclined to uphold that order.

Therefore, the narrow question which we propose to examine in this case is whether the High Court in exercise of its extraordinary jurisdiction under Arts. 226 and 227 should have by giving undue importance to a technical objection of jurisdiction which on proper fathoming, it itself lacked should have set aside a well-considered reasoned judgment of the President of the Industrial Court which again had merely remanded the matter thus prolonging to some extent the agony of the unemployed workers commencing from 1975.

Let us at the commencement acquaint ourselves with the scope and ambit of the power of the Labour Court as such as the Industrial Court under the Act which would provide a correct perspective to determine whether the High Court in exercise of its extraordinary jurisdiction under Arts. 226 and 227 was at all justified in interfering with the order mad, by the Industrial Court or that legalese prevailed over substantial

social justice.

Sec. 61 prescribes the powers of the Labour Court which inter alia includes the power-(A) to decide-(a) disputes regarding which application has been made to it under sub- section (3) of section 31 of the Act- Sec. 31 enables an employee to make an application for relief against all order of an Employer made under ally of the standing orders. Dismissal from service is an order made under the relevant standing orders. A relief against such order can be obtained by making all application under Sec. 61. Entry I in Schedule II of the Act prior to the amendment of 1981 Provided that the Labour Court may examine: "the propriety or legality of an order passed or action taken by an employer acting or purporting to act under the Standing orders.

The only feature worth-noticing is that the scope ambit and contours of the jurisdiction of the Labour Court in such an application would have to be determined within the parameters or the expression the propriety or legality of an order. Against an order made by the Labour Court under Sec. 61, a revision would lie under Sec. 66 to the Industrial Court. Sec. 66 has been wholly recast in 1981. However at the relevant time, Sec. 66 read-as under: "66; Revision. (1) The Industrial Court may, on the application by any party to a case which has been finally decided by a Labour Court other than a case decided under paragraph (D) of sub-section (1) of section 61, call for and examine the record of such case and may pass order in reference thereto as it thinks fit:

Provided that the Industrial Court shall not vary or reverse any order of the Labour Court under this section

(i) it is satisfied that the Labour Court has-

(a) exercised jurisdiction not vested in it by law; or

(b) failed to exercise a jurisdiction so vested;

or

(c) acted in exercise of its jurisdiction illegally to material irregularity;

(ii) notice has been served on the parties to the case and opportunity given to them for being heard.

(2) No application under sub-section (I) shall lie to the Industrial Court unless it is made within thirty days of the date on which the case has been finally decided by the Labour Court;

Provided that in computing the period of thirty days the period requisite for obtaining a copy of the order shall be excluded."

Having noticed the relevant provisions, it is now necessary to ascertain with precision the jurisdiction of the Labour Court under Sec. 61. The scheme of the standing orders applicable to the respondent Company would show that a penalty of dismissal or removal from service can be imposed after holding a domestic enquiry According to the relevant provisions in the standing orders, such an order when made would be open to challenge by a substantive application under Sec. 66 (1) and in such an application if and when made, the Labour Court will have jurisdiction to decide the legality and the propriety of the order. When jurisdiction is conferred union the Labour Court, not only to examine the legality of the order as also the propriety of the order, the Labour Court can in exercise of the jurisdiction examine the propriety or impropriety of the order. The expression 'propriety' is variously understood, one meaning assigned to it being 'justice' in Legal Thesaurus by Burton at page 902. Amongst various shades of meaning assigned to the expression, the oxford English Dictionary, VOl. VIII page 1484 sets out 'fitness; appropriateness; aptitude; suitability; appropriateness the circumstances or conditions, conformity with requirement; rule or principle, rightness, correctness, justness etc.' If therefore, the justice or the justness in relation to a legal proceeding where evidence is led is questioned and the authority is conferred with jurisdiction to examine the propriety of the order or decision that authority will have the same jurisdiction as the original authority to come to a different conclusion on the same set of facts. If any other view is taken the expression 'propriety' would lose all significance. The expression 'legality and propriety' has been used in various statutes where appellate or revision jurisdiction is conferred upon a superior authority. In Raman & Raman Ltd. v. The State of Madras & Anr. while examining the ambit of the jurisdiction of the State Government under Sec. 64A of the Motor Vehicles Act, 1939 as amended by the Motor Vehicles (Madras) Amendment Act, 1948 to interfere with the orders of subordinate Regional Transport Authority on the ground of propriety, this Court observed as under:

> "The word "propriety" has nowhere been defined in the Act and is capable of a variety of meanings. In the Oxford English Dictionary (Vol. VIII), it has been stated to mean "fitness; appropriateness; aptitude; suitability; appropriateness to the circumstances or conditions; conformity with requirement, rule or principle; rightness, correctness, justness, accuracy".

If the State Government was of the opinion that respondent No. I had better facilities for operation than the appellant and their service to the public would be more beneficial, lt could not be said that the State Government was in error in thinking that the order of the Board confirming the order of the Regional Trans port Authority was improper."

In Moti Ram v. Suraj Bhan & Ors. while examining the scope and ambit of jurisdiction of the High Court under Sec. 15 (5) of the East Punjab Urban Rent Restriction Act, 1949, this Court observed as under:

> "Under Sec. 15 (5) the High Court has jurisdiction to examine the legality or propriety of the order under revision and that would clearly justify the examination of the

propriety or legality of the finding made by the authorities in the present case about the requirement of the landlord under s. 13 (3) (a) (iii)."

After referring to these two decisions, in Ching Chong Sine v. Puttay Gowder, Alagiriswami, J. held that tho court exercising revisional jurisdiction to decide the legality or propriety of an order has the power to come to a conclusion different from that arrived by the subordinate court on the same set of circumstances. In Ahmedabad Sarangpur Mills Company Ltd v. Industrial Court, Ahmedabad and Anr. a Division Bench of the Gujarat High Court held that the expression 'legality and propriety' in S. 78(1) of the Bombay Industrial Relations Act does not limit the jurisdiction of the labour court to a revisional jurisdiction. And that any order made by the employer under the standing order is subject to the jurisdiction conferred on the labour court under Sec. 78, which can scrutinise the legality and propriety of the order. This jurisdiction was described by the court as original jurisdiction meaning thereby that the labour court can come to an entirely different conclusion on the same set of facts. This view was followed by another Division Bench of the Gujarat High Court in Manekchown and Ahmedabad Manufacturing Company Ltd v. Industrial Court, and another. In Vithoba Maruti Chavan v. S. Taki Bilgrami, Member Industrial Court, Bombay and Anr., a Division Bench of the Bombay High Court held that the power to decide 'propriety' and legality of the order made under standing order does not confer a mere revisional jurisdiction but a wider jurisdiction which will enable the Labour Court to set aside the order of the employer depending upon the facts and circumstances of the case.

Mr. Pai on the other hand drew our attention to Vaidyanath v. The Madhya Pradesh v. State Road Transport Corporation and Ors. While observing that a Labour Court cannot exercise the power of an appellate court and cannot reappraise the evidence yet both the Labour Court or the Industrial Tribunal can interfere with the findings of fact of the inquiry officer of the employer only where they are not supported by any legal evidence or are so perverse that no reasonable person would arrive at such findings on the materials placed before him It was held that the power of the Labour Court or the Industrial Court under the Act are not wider than those of Industrial Tribunal under the Industrial Disputes Act, 1947 before the introduction of Sec. 11-A in the latter Act. In Kymore Cement Mazdoor Congress v. Industrial Court, Indore and Ors., it was held that the expression 'illegally ar with material irregularity in sub-cl. (c) of the first proviso of Sec. 66(1) do not cover either errors of facts or law and they do not refer to the decision arrived at but to the manner in which it is reached. Approaching the matter from this angle, the High Court set aside the decision of the Industrial Court in revision against the order of the Labour Court on the ground that the Industrial Court had interfered with a finding of fact which even if erroneous would not confer jurisdiction on the Industrial Court to interfere in exercise of revisional jurisdiction Mr. Pai emphasised that the view of M.P. High Court on the interpretation of Sec. 61 should prevail over the view of Gujarat High Court interpreting a different statute. This does not carry conviction because Sec. 61 of the Act is in pari materia with Sec. 78 of the Gujarat Act. However, it would be profitable to refer to the decision of this Court in Awdesh Kumar Bhatnagar v. The Gwalior Rayon Silk Mfg. (Weaving) Co. Ltd. and Anr. in which this Court while examining the scope of the jurisdiction conferred by Sec. 66 on the Industrial Court under the Act held that if the Labour Court has committed serious mistakes, the Industrial Court has jurisdiction to interfere with the same and upheld the decision of the Industrial Court which had interfered with the findings of facts recorded

by the Labour Court A full Bench of the Madhya Pradesh High Court in Nand Kumar Singh v. The State Industrial Court, Indore and Ors held that perverse or arbitrary findings based on no material fall within the ambit of the phrase "exercise of jurisdiction illegally or with material irregularity" justifying interference in revision. It is not necessary to further multiply the authorities. Therefore, it appears well-established that the Labour Court having jurisdiction to examine the legality and propriety of the order made by the employer under the standing order will have jurisdiction to examine the propriety of the order which will permit it to come to a conclusion different from the role to which the employer arrived at Such being the amplitude of the jurisdiction of the Labour Court if upon a wrong view of ambit of its jurisdiction Labour Court approaches the matter as if it exercises narrow revisional jurisdiction, the industrial Court in revision can interfere on the ground of failure to exercise jurisdiction vested in the Labour Court or material irregularity in exercise of its jurisdiction.

Sec. 66(1) of the Act provides that the Industrial Court omitting the portion not relevant for the present purpose, may call for and examine the record of such case and pass order in reference thereto as it thanks fit. If the Industrial Court has the jurisdiction to pass any order in reference to a case called for by it thinks fit, obviously it can come to a conclusion on the same set of facts different from the one to which the Labour Court had arrived. It was however urged that this jurisdiction of wide amplitude has been cut down by the proviso which provides that the Industrial Court shall not very or reverse any order of the Labour Court under Sec. 66(1) unless-(i) it is satisfied that the Labour Court has-(a) exercised jurisdiction not vested in it by law; or (b) failed to exercise a jurisdiction so vested; or (c) acted in exercise of its jurisdiction A illegally or with material irregularity. It was urged that these clauses so circumscribe and cut down the jurisdiction of the Industrial Court under Sec. 66 as to be on par with Sec. 115 of the Code of Civil Procedure. The main part of Sec. 61 clearly spells out the jurisdiction of the Industrial Court to pass any order in reference to the case brought before it as it thinks fit. The expression 'as it thinks fit' confers a very wide jurisdiction enabling it to take an entirely different view on the same set of facts. The expression 'as it thinks fit' confers a very wide jurisdiction enabling it to take an entirely different view on the same set of facts The expression 'as it thinks fit' has the same connotation, unless context otherwise indicates, 'as he deems fit' and the latter expression was interpreted by this Court in Raja Ram Mahadev Paranjype & Ors. v. Aba Maruti Mali & Ors to mean to make an order in terms of the statute, an order which would give effect to a right which the Act has elsewhere conferred. Is this jurisdiction so circumscribed as to bring it on par with Sec. 115 of the, Code of Civil Procedure ? Proviso does cut down the ambit of the main provision but it cannot be interpreted to denude the main provision of any efficacy and reduce it to a paper provision. Both must be so interpreted as to permit interference which if not undertaken there would be miscarriage of justice. Sub-cl. (c) of the first proviso to Sec. 66(1) will permit the Industrial Court to interfere with the order made by the Labour Court, if the Labour Court has acted with material irregularity in disposal of the dispute before it. If the finding recorded by the Labour court is. such to which no reasonable man can arrive, obviously, the Industrial Court in exercise of its revisional jurisdiction would be entitled to interfere with the same even if patent jurisdictional error is not pointed out.

Reverting to the facts of this case, the Industrial Court while having the revision petitions found that the petitioners were trade union workers and the three of them were the office-bearers of the Union.

It was further found that a material piece of evidence clearly pointing to the contrary was wholly overlooked by the inquiry officer. It extracted the relevant portion of the evidence of witness Balchand and pointed out in no uncertain terms that if the inquiry officer had taken note of the relevant piece of evidence and had applied its mind to it and dealt with it in the report, it would have been difficult to hold the charge proved. The non-application of mind of the inquiry officer was pointed out by referring to that part of the final order which manifestly overlooked the material piece of evidence which would go to the root of the matter. The Industrial Court observed that the inquiry officer quitely skipped over very material portion of the evidence of Balchand which went a long way to falsify the charges relating to the incidents which preceded the actual assault on Verma. 'The Industrial Court then pointed out that report (Ex. D/18) purporting to have been made by victim Verma to the factory Manager on the day following the date of the occurrence when properly scanned appears to be a highly suspicious evidence because:

> 'it is not dated aud does not bear the endorsement of the officer to whom it was presented.' This is permissible because the revisional jurisdiction enables the authority to point something which is no evidence legally speaking or in the eye of law. It was pointed out that Verma did not identify the report. The Industrial Court concluded that the possibility of this report being introduced at a later stage to strengthen the case against the live appellants cannot be ruled-out. After referring to other infirmities in the approach of the Labour Court, the Industrial Court concluded that the entire approach of the Manager in arriving at the findings of misconduct in his inquiry 'appear to be biased and unfair', and 'the conclusions are neither fair nor reasonable and any order of dismissal based thereon cannot be sustained.' Can it ever be said that in reaching this conclusion, the Industrial Court exceeded its revisional jurisdiction ? The whole approach of the Labour Court dealing with the report of the inquiry as also the inquiry itself clearly disclosed material irregularity and thereby the Labour Court failed to exercise jurisdiction vested in it namely, to examine the property of the order with in it failed to do. The Industrial Court in our opinion, was perfectly justified in interfering with the order of the Labour Court. Even then the approach of the Industrial Court, being conscious of the severe constraints on its jurisdiction was of dignified restraint and just. It merely set aside the award of the Labour Court and did not proceed to reappraise evidence but remitted the case to the Labour Court for a fresh decision. It was thus an eminently just order.
>
> Is it such an order which the High Court could have interfered with in exercise of its extraordinary jurisdiction ? The High Court observed that the Labour Court can only interfere with the decision of the inquiry officer, if the findings arrived at by him were perverse. The High Court completely missed the ambit of jurisdiction of the Labour Court in that it had the jurisdiction to decide the legality and propriety of the order. Impropriety as converse of propriety cannot be equated with perversity as understood by the High Court. The High Court further observed that if 'the finding of the misconduct is a plausible conclusion flowing from the evidence adduced at the enquiry, the labour tribunals have no jurisdiction to sit in judgment over the decision of the employer, as an appellate body. This betrays complete lack of understanding of

the jurisdiction of the Labour Court in respect of an order made under the standing order as set out in Schedule II item I to the Act which enables the Labour Court to examine the legality and propriety of the order. The High Court therefore, wholly misread the relevant provision and interfered with the decision of the Industrial Court which was pre-eminently just and within the four corners of its jurisdiction. What left us guessing was that according to the High Court the Industrial Court had narrow jurisdiction while dealing with the order of the Labour Court, yet the High Court in exercise of its extraordinary jurisdiction interfered with the decision of the Industrial Tribunal. Times without number, it has been pointed out that Art. 225 is a device to secure and advance justice and not otherwise. (Sadhu Ram v. Delhi Transport Corporation) Ordinarily, the courts exercising extraordinary jurisdiction is loathe to interfere with an order remanding the matter to the authority directed to investigate facts. The Industrial Court had made an order of remand. The High Court was not justified in interfering with the same. By this uncalled for interference, it has merely prolonged the agony of the unemployed workmen and permitted the jurisdiction of the High Court under Act. 226 to be exploited by those who can well afford to wait to the deteriment of those who can ill afford to wait by dragging the latter from court to court for adjudication of peripheral issues avoiding decision on issues more vital to them. (D.P. Maheshwari v. Delhi Administration and Ors.

Accordingly these appeals succeed and are allowed and the decision of the High Court is. set aside and the one of the Industrial Court is restored with costs.

As the matter is an old one, the Labour Court is directed to give top priority to this matter and dispose this of as early as possible and not later than six months from today.

N.V.K. Appeals allowed