* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 09.01.2013

% **Judgment delivered on: 21.01.2013**

\+ **W.P.(C) 5266/2011 and C.M. No.10681/2011 (for stay)**
(arising out of D.I.D. No.24/2009)

INDRAPRASTHA POWER GENERATION COMPANY LTD ..... Petitioner
Through: Mr. Vinay Sabharwal, Advocate.

versus

RAMA KANT SHARMA AND ANR ..... Respondents
Through: Mr. Salim Inamdar & Mr. Vedanta Varma, Advocates for the respondent No.1.
Mr. Dhanesh Relan & Ms. Richa Kaushal, Advocates for the respondent No.2.

\+ **W.P.(C) 5433/2011 and C.M. No.11077/2011(for stay)**
(arising out of D.I.D No.27/2009)

INDRAPRASTHA POWER GENERATION COMPANY LTD ..... Petitioner
Through: Mr. Vinay Sabharwal, Advocate.

versus

AMARJEET SINGH AND ANR ..... Respondents
Through: Mr. Salim Inamdar & Mr. Vedanta Varma, Advocates for the respondent No.1.

Mr. Sanjeev Sabharwal & Mr. Hem Kumar, Advocates for the respondent No.2/GNCTD.

\+ **W.P.(C) 5553/2011and C.M. No. 11347/2011(for stay)**
(arising out of D.I.D No.26/2009)

INDRAPRASTHA POWER GENERATION COMPANY LTD ..... Petitioner
Through: Mr. Vinay Sabharwal, Advocate.

versus

SOMEER CHATTERJEE AND ANR. ..... Respondents
Through: Mr. Salim Inamdar & Mr. Vedanta Varma, Advocates for the respondent No.1.
Ms. Sangeeta Sondhi, Advocate for the respondent No.2.

\+ **W.P.(C) 5787/2011and C.M. No. 11774/2011(for stay)**
(arising out of D.I.D No.25/2009)

INDRAPRASTHA POWER GENERATION COMPANY LTD ..... Petitioner
Through: Mr. Vinay Sabharwal, Advocate.

versus

KRISHAN CHAKERVORTY AND ANR ..... Respondents
Through: Mr. Salim Inamdar & Mr. Vedanta Varma, Advocates for the respondent No.1.
Ms. Sangeeta Sondhi, Advocate for the respondent No.2.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

J U D G M E N T

VIPIN SANGHI, J.

1. By the present petitions, the petitioner seeks the setting aside of the identical orders, all dated 14.02.2011 passed by Shri Rakesh Kumar Sharma, POLC, in the DIDs whose details are mentioned hereinabove, thereby holding and declaring the claims filed by the Respondents aforesaid to be maintainable under Section 10(4A) of the Industrial Disputes Act, 1947.

2. The respondents were serving the petitioner employer when they were charge-sheeted and, after an enquiry, they were all dismissed from service. Their Departmental Appeals and further revisions were also rejected.

3. Consequently, the respondents approached the Labour Court directly under Section 10(4A) of the Industrial Disputes Act (hereinafter referred to as, 'the Act') as applicable to Delhi to assail the aforesaid actions of the petitioner-employer.

4. Meanwhile, the Respondents filed their respective Review Petitions before the Board of Directors of the petitioner. The Chairman of the petitioner reduced the quantum of punishment from dismissal from service to reduction to the lowest stage of time scale of pay for a period of five years with a further stipulation that the workmen will not earn any increment of pay during the period of such reduction and the reduction will also have the effect of postponing their future increments of pay. The Respondent workmen were reinstated in service.

5. Consequently, the respondents filed applications under rder 6 Rule 17 of CPC in their respective cases seeking amendment of their Statement of Claim for brining on record this development and challenging the reduced penalty.

6. The petitioner then raised the objection to the continued maintainability of the industrial dispute under Section 10(4A) of the Act in view of the reduced punishment, by contending that the dispute now ceased to be that of dismissal from service. The petitioners contention was that the industrial dispute could be directly raised before the Labour Court under Section 10(4A) of the Act only in cases of "*order of discharge, dismissal, retrenchment or termination"*. Consequently, the Industrial Tribunal framed the following as a preliminary issue in all these cases;

> *"Whether in view of the averments made in the application U/o 6 Rule 17(CPC) by the workman that the termination of the workman has been reviewed and he has been reinstated by the Management, the present dispute/petition continues to be maintainable?"*

7. The Industrial Adjudicator, after hearing the arguments advanced on behalf of the parties held that the order of reinstatement with reduced penalty do not render the respondents direct petitions not maintainable.

8. Learned counsel for the Petitioner contends that the Learned Industrial Adjudicator did not consider that the original scheme of Act was only to cover collective disputes and not individual disputes. An individual workman had no right to individually invoke the industrial adjudication machinery and, in order to convert the cause of an individual worker into an

industrial dispute within the meaning of Section 2(k) of the Act, it needed to acquire a collective form, i.e., a substantial group of workmen of the concerned employer had to express a collective will whereby the cause of the individual could be adopted by such substantial number of workmen-whether by themselves, or under a trade union. He submits that a collective body of workmen/trade union had to espouse the cause of the individual workman to give the said dispute the status of an industrial dispute. Learned counsel submits that in the year 1965 the Act was amended by Act 35 of 1965 and Section 2(A) was inserted, whereby a dispute with regard to discharge, dismissal, retrenchment or other termination of service of an individual workman was deemed to be an industrial dispute, notwithstanding that no other workman, nor any union of workman is a party to the dispute. Mr. Sabharwal submits that in the year 2003, a State amendment was introduced in Delhi whereby sub-section (4A) was inserted in Section 10 of the Act which enabled the workman aggrieved by his discharge, dismissal, retrenchment or termination to directly approach the labour court or the tribunal, as the case may be, to seek adjudication of the said dispute. Mr. Sabharwal submits that for all other kinds of disputes (other than those relating to discharge, dismissal, retrenchment or termination), if a dispute were to be raised, the only way for invoking the jurisdiction of the industrial adjudication machinery continues to remain the same i.e. by raising a collective dispute by a valid espousal and approach to the appropriate government for the same.

9. Therefore, the assertion of the petitioner is that since there is no surviving termination of services in existence as on date, as is evident from

the amendment sought by each of the respondent workmen of their respective Statements of Claim, the direct petitions initially instituted by each of them cannot be entertained further. The respondents, according to him, should now seek a fresh reference of their individual disputes to the industrial adjudicator by the appropriate Government. He submits that the Labour Court does not have the jurisdiction to adjudicate upon the validity of the punishment as it now stands in each of these cases, as they are not either of "discharge, dismissal, retrenchment or termination" unless these industrial disputes are espoused by the Trade Union collectively and then referred to the Labour Court by the appropriate Government. A dispute which is not validly espoused cannot confer jurisdiction on the Labour Court after it reaches the Labour Court. A subsequent espousal cannot confer jurisdiction on the Labour Court to adjudicate upon the dispute. Reference is sought on ***The Bombay Union of Journalists and Ors. Vs. The Hindu, Bombay and Anr.*** *AIR 1963 SC 318,* wherein it was observed that *"Subsequent withdrawal of support will not take away the jurisdiction of an industrial tribunal. On the same reasoning subsequent support will not convert what was an individual dispute at the time of reference into an industrial dispute."*

10. In support of his submissions, learned counsel for the Petitioner has also relied upon ***Newspapers, Limited, Allahabad vs. State Industrial Tribunal, Uttar Pradesh and Ors.,*** *AIR 1960 SC 1328;,* ***Workmen of Dharampal Premchand vs. Dharampal Premchand,*** *AIR 1966 SC 182;* ***Somasundaram Vs.Labour Court and Anr.,*** *(1970) ILLJ 558 AP* ***and***

Newspapers Ltd. vs. Industrial Tribunal, Uttar Pradesh and Ors., *AIR 1957 SC 532.*

11. On the other hand, learned counsel for the Respondents submits that the Petitioner's contention is fallacious for two reasons. Firstly, there cannot be re-determination of maintainability on the ground that the dispute now does not fall within the scope of Section 2A on account of subsequent developments. Secondly, Section 2A is wide enough to include within its scope the subsequent action of the petitioner, which is "connected with, or arising out of" the initial orders of dismissal of the Respondent/Workmen.

12. Learned counsel for the Respondents also submitted that it is only in the case of "dispute falling within the scope of Section 2A" that the Labour Court can assume jurisdiction under Section 10(4A). The existence of such a dispute is therefore a jurisdictional fact which is to be determined at the inception of the proceeding and once established, the jurisdiction/maintainability of the proceeding is not affected by subsequent events, particularly, the conduct of the parties to the lis. It is also settled that jurisdiction is required to be determined with reference to the date on which the suit is filed and entertained, and not with reference to a future date. Reliance is placed on ***Carona Ltd. Vs. Parvathy Swaminathan and Sons,*** *(2007) 8 SCC 559.*

13. It is also the submission of the Respondents that the right of the workmen to avail of the expeditious process of adjudication by filing the claim under Section 10(4A) cannot be set to naught by the unilateral action of the Petitioner company, particularly when the unilateral action was taken

more than a year after the initiation of proceedings before the Labour Court. It is contended that the Act is a piece of beneficial legislation and Section 2A is aimed at alleviating the hardship of the workmen who have been wrongfully dealt with by the employer, and an interpretation which allows the employer to defeat the adjudicatory process would not only be unjust but directly contrary to the object and purpose of the statute.

14. It is also submitted that an action of a party, pending the lis, is subject to the outcome of the lis and cannot give one party an additional benefit or defeat the accrued right of the other party to the lis. Reliance is placed on ***Mohannakumaran Nair vs. Vijayakumaran Nair,*** *(2007) 14 SCC 426* and ***Carona Ltd.*** *(supra).*

15. It is submitted by virtue of Section 11A of the Act, the Industrial Adjudicator has the power to reappraise the evidence and to satisfy itself that the evidence establishes the misconduct alleged. The Labour Court also has the power to alter the punishment imposed. It can change the order of dismissal to a lesser punishment. Reliance is placed on ***The Workmen of M/s Firestone Tyre and Rubber Co. of India Pvt. Ltd. vs. The Management and Ors.****(1973) 1 SCC 813.* In such a situation, the Petitioner could not have argued that the subsequent reduction of punishment by the Industrial Adjudicator will deprive the Industrial Adjudicator of its jurisdiction.

16. Next submission of the learned counsel for the Respondent is that the dispute pending before the Labour Court continues to be a dispute under

Section 2A of the Act. Section 2A of the Act, insofar as it is relevant reads as under:

> *"[**2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.***
>
> *(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer **connected with, or arising out of**, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.]*
>
> *(2).....*
>
> *(3)....."[Emphasis supplied]*

17. Mr. Vedanta Varma, learned counsel for the Respondents submits that the disputes "connected with, or arising out of" discharge, dismissal, retrenchment or termination of workmen also fall within the scope of Section 2A. In this regard, reliance is placed on ***Joseph Niranjan Kumar Pradhan vs. Presiding Officer, Industrial Tribunal and Ors,*** (1977) ILLJ 36 Ori.. He submits that the subsequent reduction of penalty by the Petitioner is based on the same alleged misconduct and enquiry which resulted in the dismissal of the Respondents and the subsequent reduction in penalty arises out of the same process. The fresh penalty is connected to the initial action of dismissal, as the initial dismissal is a link in the same chain of events. The dispute, therefore continues to remain "connected with, or arising out of" the initial dismissal order passed by the Petitioner.

18. Learned counsel for the respondents submits that the nature of the enquiry before, and the dispute to be adjudicated by the Industrial Adjudicator, does not undergo any change inasmuch, as, the respondents have primarily challenged the enquiry conducted by the Petitoner against each of them, and the consequential orders of punishment of dismissal which now stand substituted. The primary issue before the Industrial Adjudicator still survives for determination, apart from the legality and proportionality of the punishment imposed.

19. In his rejoinder, learned counsel for the Petitioner submits that reliance placed on Section 11A of the Act is misplaced. This provision deals with, inter alia, the power on the Labour Court to alter the punishment imposed by the employer in case the punishment is found to be grossly disproportionate to the gravity of misconduct. He submits that the issue regarding the validity of termination is the substantive dispute determined by the Industrial Adjudicator and the quantum of punishment i.e. whether, or not, it is disproportionate, is only one of the issues determined by the Industrial Adjudicator. He submits that in view of the changed scenario, the issue of dismissal no longer survives. Thus, what is left for adjudication, is not the validity of dismissal, but the action of reduction to the lower stage of time scale. This, according to Mr. Sabharwal, cannot form subject matter of adjudication under Section 2A of the Industrial Disputes Act and the respondents cannot invoke the jurisdiction of the Industrial Adjudicator directly under Section 10(4A) of the Act. Mr. Sabharwal submits that the issue regarding validity of the enquiry is only an incidental question to the substantive dispute of dismissal/termination. By itself, the same does not

form the subject matter of substantive adjudication. The conduct of domestic enquiry cannot, by itself, form the subject matter of an industrial dispute. He also submits that the decisions relied upon by the respondents have no relevance to the present case.

20. Having heard the Learned Counsels for the parties and considered the rival submissions in the light of the statutory provisions and precedents, I am of the view that the jurisdiction of the Industrial Adjudicator does not cease on account of substitution of the penalty from one mentioned in Section 10(4A) to a lesser punishment, post the invocation of the jurisdiction of the Industrial Adjudicator by the workman by resort to Section 10(4A) of the Act. Sub-section (4A) of Section 10 of the Act reads as follows:

> "(4A) Notwithstanding anything contained in section 9C and in this section, the case of a dispute falling within the scope of section 2A, the individual workman concerned may, within twelve months from the date of communication to him of the order of discharge, dismissal, retrenchment or termination or the date of commencement of the Industrial Disputes (Delhi Amendment) Act, 2003, whichever, is later, apply in the prescribed manner, to the Labour Court or the Tribunal, as the case may be, for adjudication of the dispute and the Labour Court or Tribunal, as the case may be, shall dispose of such application in the same manner as a dispute referred under sub-section (1)."

21. The jurisdiction of the Industrial Adjudicator can directly be invoked by the workman under Section 10(4A), *"in the case of a dispute falling within the scope of Section 2A"*. Section 2A(1) deems that any dispute or difference between the workman "*and his employer connected with, or arising out of, or discharge, dismissal, retrenchment or termination shall*

be" an industrial dispute. The intention of the Parliament was, therefore, not to limit the deeming fiction to mere cases of discharge, dismissal, retrenchment or termination but to expand the deeming fiction in cases of disputes and differences to even those disputes and differences which are, "*connected with or arising out of*", such as discharge, dismissal, retrenchment or termination. In the present case, the respondents were initially dismissed from service. The said dismissal was departmentally assailed in appeal; thereafter in revision; and eventually by review. The steps taken by the respondents to seek redressal against the initial order of dismissal were in accordance with the redressal mechanism created by the petitioner within its organization. The order of dismissal was, therefore, a link in the whole chain of events which culminated in the reduction of the penalty from dismissal to that of reduction to the lowest stage of time scale of pay for the stipulated period when the respondents would not earn increments of pay and the reduction was also have the effect of postponing the future increments of pay. The reduced penalty as aforesaid is, therefore, connected with the earlier penalty of dismissal. Consequently, the disputes regarding the reduced punishment as aforesaid would fall within the scope of Section 2A of the Act.

22. In **Joseph Niranjan Kumar Pradhan** (supra), the dispute raised by the workman pertained to the payment of gratuity to the workman whose services had been terminated on account of incapacity relating to old age and chronic ailment. The question arose whether the dispute regarding the claim for gratuity was one falling within the scope of Section 2A of the Act i.e. whether it is, or is not, connected with discharge, dismissal,

retrenchment or termination of service. The Division Bench of the Orissa High Court after considering the various decisions cited before it observed as follows:

> *"..... .... that the ambit of Section 2A is not limited to bare discharge, dismissal, retrenchment or termination otherwise of service of an individual workman, but any dispute or difference between the workman and his employer "connected with" or "arising out of" discharge, dismissal, retrenchment or termination is to be deemed as an industrial dispute."*

Therefore, by mere substitution of the penalty of dismissal with that of reduction to the lowest stage of time scale of pay with the conditions aforesaid, the penalty would not cease to be dispute connected with dismissal and, therefore, falling within the scope of Section 2A of the Act. On this count alone, it can be said the labour court continued to retain jurisdiction to deal with the dispute raised by the respondents, despite the reduction in the penalty.

23. Quite independent of, and apart from the aforesaid reasoning, even otherwise, the settled legal position is that jurisdictional facts have to be determined as on the date of the institution of the proceeding and not on the basis of subsequent developments which may take place, unless, of course, such developments are legislative in character.

24. In **Mohannakumaran Nair** (supra), the Supreme Court was dealing with the question whether the trial court had the territorial jurisdiction to try the suit of the respondent. The transaction between the parties had taken place in Saudi Arabia. The respondent/plaintiff, however, filed a suit in the

court of the Subordinate Judge, Attingal for recovery of money against the appellant. The appellant raised the issue of lack of territorial jurisdiction on the part of the court to entertain the suit. This application was dismissed by the trial judge. The Civil Revision preferred by the appellant defendant before the High Court also failed. The Supreme Court while allowing the appeal observed as follows:

> **"8. The question in regard to the jurisdiction is required to be determined with reference to the date on which the suit is filed and entertained and not with reference to a future date**. Sections 15 and 19 regulate the filing of the suit at the places where cause of action has arisen. Section 20 operates subject to the limitation contained in Sections 15 to 19. Place of residence of the defendant being one of the exceptions thereto. The plaintiff is the *dominus litus*, but he can file a suit only at one or the other places specified in the Code of Civil Procedure and not at any place where he desires.
>
> **……..**
>
> **11. Ordinarily, the rights and obligations of the parties are to be worked out with reference to the date of institution of the suit. See *Jindal Vijayanagar Steel (JSW Steel Ltd.)* v. *Jindal Praxair Oxygen Co. Ltd.* [(2006) 11 SCC 521 : (2006) 8 Scale 668] Determination in regard to maintainability of the suit, it is trite, must be made with reference to the date of the institution of the suit. If a cause of action arises at a later date, a fresh suit may lie but that would not mean that the suit which was not maintainable on the date of its institution, unless an exceptional case is made out therefor can be held to have been validly instituted.** Discretion, as is well known, cannot be exercised, arbitrarily or capriciously. It must be exercised in accordance with law. When there exists a statute, the

> question of exercise of jurisdiction which would be contrary to the provisions of the statute would not arise." [Emphasis supplied]

25. **Carona Ltd.** (supra) is a case which is even more relevant. The Maharashtra Rent Control Act, 1999 ('Rent Act' for short) exempted from the operation of the Rent Act any premises, let or sublet to, inter alia, a public limited having a paid up share capital of Rs. 1 crore or more. The appellant before the Supreme Court was a public limited company and a tenant. Its paid-up share capital was more than Rs. 1 crore when the landlord instituted ejectment proceedings. With a view to seek protection under the Rent Act, the appellant sought to reduce its paid up share capital to below Rs. 1 crore. On the basis of the said reduction, the appellant sought coverage under the Rent Act. The submission made by the appellant before the Supreme Court, and the relevant discussion found in the judgment read as follows:

> "26. The learned counsel for the appellant company submitted that the fact as to "paid-up share capital" of rupees one crore or more of a company is a "jurisdictional fact" and in absence of such fact, the court has no jurisdiction to proceed on the basis that the Rent Act is not applicable. The learned counsel is right. **The fact as to "paid-up share capital" of a company can be said to be a "preliminary" or "jurisdictional fact" and said fact would confer jurisdiction on the court to consider the question whether the provisions of the Rent Act were applicable. The question, however, is whether in the present case, the learned counsel for the appellant tenant is right in submitting that the "jurisdictional fact" did not exist and the Rent Act was, therefore, applicable.**

27. Stated simply, the fact or facts upon which the jurisdiction of a court, a tribunal or an authority depends can be said to be a "jurisdictional fact". If the jurisdictional fact exists, a court, tribunal or authority has jurisdiction to decide other issues. If such fact does not exist, a court, tribunal or authority cannot act. It is also well settled that a court or a tribunal cannot wrongly assume existence of jurisdictional fact and proceed to decide a matter. The underlying principle is that by erroneously assuming existence of a jurisdictional fact, a subordinate court or an inferior tribunal cannot confer upon itself jurisdiction which it otherwise does not posses.

……..

42. In our judgment, the law is fairly settled. The basic rule is that the rights of the parties should be determined on the basis of the date of institution of the suit. Thus, if the plaintiff has no cause of action on the date of the filing of the suit, *ordinarily*, he will not be allowed to take advantage of the cause of action arising subsequent to the filing of the suit. Conversely, no relief will *normally* be denied to the plaintiff by reason of any subsequent event if at the date of the institution of the suit, he has a substantive right to claim such relief.

43. In the instant case, in our opinion, the courts below were right in holding that the date on which tenancy was determined, the right in favour of the landlord got accrued. Such right could not have been set at naught by the tenant by unilateral act by passing a resolution to reduce "paid-up share capital" of the company.

…….

> 50. In our opinion, the ratio laid down in the above cases applies to the present case as well. **Admittedly, on the date the tenancy was terminated, the tenant (public limited company) was having a paid-up share capital of rupees more than one crore. Under Clause (*b*) of Section 3(1) of the Act, therefore, the provisions of the Act were not applicable to the suit premises. It is true that a resolution was passed by the company to reduce the paid-up share capital to less than rupees one crore, but the said resolution was never approved by BIFR. But even otherwise, once it is proved that the tenancy was legally terminated and the Act would not apply to such premises, a unilateral act of tenant would not take away the accrued right in favour of the landlord. Unless compelled, a court of law would not interpret a provision which would frustrate the legislative intent and primary object underlying such provision. We, therefore, see no infirmity in the conclusions arrived at by the courts below." [Emphasis supplied]**

26. Admittedly, the claim petitions when filed by the respondent workmen were maintainable. On this, there is no challenge raised by the Petitioner. Consequently, the action of the Petitioner-whether suo moto, or otherwise, in reducing the penalty subsequently would not divest the jurisdiction of the Labour Court and take away the rights vested in the respondent workmen to approach the Labour Court under Section 10(4A) of the Act.

27. I accept the submissions of learned counsel for the respondents that the objective and purpose of providing direct and efficacious remedy to a workman whose services have been terminated or who has been discharged, dismissed or retrenched, would be rendered otiose if the labour court were to

now non suit the workmen only on account of the subsequent reduction in the penalty due to a departmental action. Considering that the Act is a piece of beneficial legislation to protect and subserve the rights of the workmen, the adoption of the interpretation advanced by the petitioner would certainly not serve the said purpose.

28. As contended by learned counsel for the respondents, the subsequent reduction in the penalty is possible at the hands of the Industrial Adjudicator by virtue of Section 11A of the Act. Could it be said that if the Industrial Adjudicator, after examination of the matter, finds that the penalty of discharge, dismissal, termination or retrenchment is not justified, and is inclined to substitute the said penalty by a lesser penalty, he would reject the petition by observing that the workman should seek reference of the dispute under Section 10 of the Act? The obvious answer to the question would be in the negative. The primary enquiry before the Industrial Adjudicator in a case of discharge, dismissal, termination or retrenchment would be the reason for the imposition of such penalty. Therefore, the workman would be entitled to assail the enquiry, on the basis of which, the action has been taken. If the inquiry is found to be bad, or illegal for any reason, the consequent punishment would not survive. Even if the enquiry is found to be validly held and the finding of guilt correctly returned against the workman, the questions - such as the competence of the authority issuing the punishment order, or the proportionality of the punishment to the proven misconduct would still require examination.

29. The comparison of the prayer in the Statement of Claim as originally filed with the amended prayer shows that there is hardly any difference. The

first prayer made by the workmen continuous to be to seek a declaration with regard to the enquiry proceedings and the report being illegal, arbitrary, vitiated, against the rules and suffering from procedural ultra vires etc. It is only the second relief which has undergone a change. In place of the challenge to the orders of dismissal, the respondents are now challenging the penalty of reduction in the time scale. The nature of the enquiry before the Labour Court would, therefore, be no different from what it would have been, had the penalty not been reduced from dismissal to reduction in the time scale.

30. The decisions relied upon by Mr. Sabharwal are all relating to the law of espousal of the individuals dispute by a collective body/group of workman/trade union. For the reasons aforesaid, in my view, none of these judgments have any relevance in the facts of this case.

31. Accordingly, I dismiss the present petitions and hold that the labour court has the jurisdiction to proceed with the claims filed by the respondent workmen under Section 10(4A) of the Act despite the reduction in the penalty from that of dismissal to reduction in time scale. The respondent in each case shall also be entitled to costs quantified at Rs. 10,000/-. Costs be paid within two weeks.

(VIPIN SANGHI)
JUDGE

JANUARY 21, 2013
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