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

% ***Judgment delivered on: 10.12.2024***

+ LPA 300/2018 and CM APPL. 49216/2023 (Stay), CM APPL. 55272/2023 (Stay), CM APPL. 48799/2024 (Addl. Document)

BANK OF BARODA ERSTWHILE VIJAYA BANK

.....Appellant

Through: Mr. Chinmoy Pradip Sharma,
Sr. Adv. with Mr. Kush
Sharma, Standing Counsel and
Ms. Asiya Khan, Mr. Irfan
Hasieb, Mr. Krishnajyoti Deka,
Mr. Vijay Deora, Mr.
Nishchaya Nigam and Ms.
Vagmi Singh, Adv.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Mr. Rajesh Kumar, SPC with
Mr. Rishesh Mani Tripathi, Mr.
Yash Narain, Mr. Changez
Alikhan, Ms. Mishika Pandita
and Mr. Rahul Kumar Sharma,
Adv. for R-1/UOI
Mr. Manoj Joshi, Adv. for R-2
alongwith respondent no.2/Sh.
Ish Kumar Pruthi.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

YASHWANT VARMA, J. (Oral)

1. The instant appeal is directed against the judgment rendered by the learned Single Judge dated 14 December 2017, dismissing a writ petition preferred by the appellant and which had questioned the validity of an Award passed by the **Industrial Tribunal/Labour**

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Court¹ dated 18 March 2004.

2. The industrial dispute itself pertained to the validity of the action of the appellant in dispensing with the services of the respondent-workman. The Tribunal had answered the reference in favour of the workman and directed reinstatement with continuity of service, full back wages and all consequential benefits.

3. From the facts which have come to be recorded by the learned Single Judge, we find that one of the issues that came to be framed by the Tribunal was with respect to the validity of the domestic enquiry that had been conducted by the appellant. The Tribunal had ultimately found that the said enquiry was flawed and conducted in violation of the principles of natural justice. This becomes evident from a reading of paragraphs 46 and 47 of the judgment impugned before us and which are extracted hereinbelow:

“46 The reference, to the proceedings on 20th August 1993, as contained in the Inquiry Report submitted by the I/O, for its part, read thus:

“On 20th August 1993, that Defence Representative did not turn up in time at the appointed time i.e. 10 AM, I had joined the proceedings after 12 noon and waited for the Defence Representative. At 12:30 PM, the CSE produced a letter written by the Defence Representative intimating his inability to attend the Inquiry *due to personal reasons*. Since enough chances and time were already given to the chargesheeted employee I did not agree to further adjournments as all the witnesses were present. I requested Mr I K Pruthi to Cross-examine witnesses, but he did not agree for the same. He was also asked to seek the services of any other person who would defend his case, but he only sought for a further adjournments *without any reasonable ground*. The proceedings were then conducted at 2: 15 PM.” (Emphasis supplied)

One is forced to comment, on reading the manner in which the IO has chosen to refer to the proceedings of 20th August, 1993, that he has been less than economical with the truth. *There is no reference, whatsoever, to the submission, of the respondent, that the child of the DR was unwell, and that adjournment had been sought, on 20th*



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August 1993, on that ground. Rather, the reference, of the IO, in the above extracted paras from the Inquiry Report, to the adjournment, on 20th August 1993, having been sought by the DR "on personal reasons", and the finding that the respondent had sought for an adjournment "without any reasonable ground", appear to be consciously misleading. Without any further comment on the conduct of the IO in this regard, I am constrained to observe that, even in law, the IO erred in relying on the fact that adjournments had been granted earlier. Once, on the request of the respondent, the IO had been directed to proceed with the enquiry *de novo*, the spectre of the proceedings that had taken place prior thereto, stood exorcised. After the matter had, thus, been taken up, *de novo*, by the IO, there is no dispute that only two dates of hearing had been fixed, i.e. 19th August 1993 and 20th August 1993. The adjournments which might have been taken prior to the matter being, as it were, remanded to the IO, and proceeded *de novo*, could, therefore, have had no bearing on the exercise of discretion, by the IO, regarding the request for adjournment, made by the respondent, on 20th August 1993. That apart, even applying the principle laid down by the Supreme Court in **Chandra Govindji (supra)**, the legitimacy of the request, for an adjournment, made on 20th August 1993, could not be tested on the basis of the number of adjournments taken earlier. The request for an adjournment, on 20th August 1993, was undoubtedly on valid grounds, i.e. the illness of the child of the DR. The DR was, effectively, the counsel for the respondent before the IO, and a refusal, to grant a single adjournment, even when the ground was illness of the child of the counsel, has necessarily to be characterised as perverse, and reflective of undue haste to conclude the proceedings.

47 That the principles of natural justice and fair play are not straitjacketed, is a well-known and well accepted truism. The solemnity of the proceedings, and the seriousness of the consequences that would ensue, where opportunity, as sought for, not granted, are considerations which have necessarily to inform the dispassionate adjudicator, while adjudicating on such a request. In the present case, manifest travesty of justice has resulted, by the refusal, of the I/O, to grant a single adjournment on 20th August 1993, as prayed for by the respondent, resulting in the enquiry report opining against him, relying on the very evidence of the MWs, whose cross examination was denied to the respondent. It has resulted in the respondent being thrown out of his job, depriving him of the only source of livelihood. The repercussions of dismissing a low paid workman from service is an aspect which, I find, in case after case, is not appreciated by the employer concerned. While it is true that continuance, in service, of an employee whose conduct is subversive of the discipline of the institution, or who is guilty of corrupt practices, irrespective of the degree thereof, is obviously not advisable the decision to remove such an employee from service has necessarily to be taken only after rigorous compliance with the principles of natural justice and

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fair play. Such a decision results in civil death of the workman, and has the perilous potentiality of casting his entire family on the roads. There can be no halfway house in such cases. Any let-up, in grant of full opportunity, to the workman, to defend his case, would be fatal to the proceedings. Inquiry officers and disciplinary authorities, deciding such cases, are obliged, in morality as much as in law, to be alive to the fact that, by a single stroke of the pen, they could be pulverizing the sole source of sustenance of an entire family.”

It is on the aforesaid reasoning that the learned Single Judge came to affirm the view taken by the Tribunal in this regard.

4. The appellants then appear to have assailed the proceedings as they unfolded before the Tribunal contending that it had clearly erred in failing to grant them an opportunity to prove the charges against the respondent-workmen in the course of consideration of the reference that was made. This aspect has been dealt with by the learned Single Judge in paragraph 51 and which reads thus:

“51 That takes us to the next limb of the case, i.e., the decision, of the learned Tribunal, not to grant, any opportunity, to the petitioner, to prove the charges, against the respondent, before it, by leading evidence, in view of the fact that no request, to that effect, had been made by the petitioner. The issue of whether, in the absence of a request, by the Management-employer, to lead additional evidence before the Labour Court/Industrial Tribunal, to prove the charges against the workman, even if the, enquiry had been held not to be validly conducted, fell for consideration before a Constitution Bench of the Supreme Court, in *Karnataka State Road Transport Corporation v Lakshmiddevamma*, (2001) 5 SCC 433, consequent upon differing opinions, on the point, being expressed by two Division Benches, in *Shambu Nath Goyal v. Bank of Baroda*, (1983) 4 SCC 491 and *Rajinder Jha v. Presiding Officer, Labour Court*, 1984 Supp SCC 520. While Y.K.Sabharwal, J. (as his Lordship then was) rendered the dissenting judgement, in favour of the Management, separate opinions, in favour of the workman, were delivered by N. Santosh Hegde, J [for himself and S.J. Bharucha, J. (as his Lordship then was)] and Shivraj Patil, J. [for himself and V.N.Khare, J. (as is Lordship then was)]. While Santosh Hegde, J held that, if no request for being permitted an opportunity to lead additional evidence, before the Labour Court/Industrial Tribunal, to prove the charges against the workman, was contained in the written statement filed by the Management, the Management could not, at any later stage, make such a request, Shivraj Patil J preferred a



more moderate approach, holding that, in an appropriate case, the Labour Court/Industrial Tribunal could allow the Management to lead additional evidence, supporting the case against the workman, even if no request, to that, effect, was contained in the written statement filed in response to the workman's Statement of Claim, but was made at some later stage. This slight difference, between the views expressed by Santosh Hegde, J and Shivraj Patil, J, does not really affect the present case, as, viewed either way, the contention, of Mr. Rajesh Kumar, that the learned Tribunal necessarily had to afford an opportunity, to his client, to prove the charges against the respondent, even where no such request was contained, either in the written statement filed by the petitioner before the learned Tribunal, or in any separate application filed for the said purpose, after rendition of the order on the preliminary issue regarding validity of the enquiry, is obviously misconceived. In the absence of any request, made at any stage, by the petitioner, to the learned Tribunal, to be permitted to lead additional evidence to prove the charges against the respondent, no-fault, whatsoever, can be found with the decision, of the learned Tribunal, not to grant such an opportunity to the petitioner."

5. Undisputedly, the appellant while filing its written statement had not reserved any right to prove the charges before the Tribunal and thus provision for a contingency where it came to the conclusion that the domestic enquiry was invalid. However, notwithstanding such liberty having not been specifically prayed for, we bear in consideration the following salient principles which had come to be rendered by the Supreme Court in **Karnataka SRTC vs. Lakshmiddevamma**², a decision which has also been noticed by the learned Single Judge. We deem it apposite to extract the following passages from that decision:

"33. It is evident from the above that on pronouncement of the decision of the preliminary issue as to whether the domestic enquiry had violated the principles of natural justice, the management was to decide whether it will adduce any evidence before the Labour Court. That was held to be the appropriate stage. All these decisions again came to be examined in *Shankar Chakravarti v. Britannia Biscuit Co. Ltd.* [(1979) 3 SCC 371 : 1979 SCC (L&S) 279 : (1979) 3 SCR 1165] and the decision in *Cooper Engg. Ltd. case* [(1975) 2 SCC 661 : 1975 SCC (L&S) 443 : (1976) 1 SCR 361] indicating the stage of opportunity was cited with approval and it was further opined that



such an opportunity had to be asked for. The Bench held that if a request is made in the statement of claim or written statement, depending upon whether the proceedings were under Section 33 or Section 10 of the Industrial Disputes Act, the Labour Court or the Industrial Tribunal must give such an opportunity. If the request is made before the proceedings are concluded the Labour Court/Industrial Tribunal should ordinarily grant an opportunity to adduce evidence. It was further held that if no request is made at any stage of the proceedings, there is no duty in law on the Labour Court or the Industrial Tribunal to give such an opportunity.

34. In the present case, we are not called upon to decide a case where no request to adduce evidence is made by the employer. We are concerned with the question that in a case where request is made to adduce evidence immediately after the decision of the preliminary issue but such a request was not made in the written statement filed in reply to the statement of claim of the workman in proceedings under Section 10 of the Industrial Disputes Act, does it require outright rejection without being considered on merits? The opinion expressed in *Shankar Chakravarti case* [(1979) 3 SCC 371 : 1979 SCC (L&S) 279 : (1979) 3 SCR 1165] reads as under: (SCC p. 387, para 28)

“When read in the context of the propositions culled out in *Delhi Cloth & General Mills Co. case* [(1972) 1 SCC 595 : (1972) 3 SCR 29] and *Firestone Tyre & Rubber Co. of India (P) Ltd. case* [AIR 1963 SC 295 : (1963) 3 SCR 461] the decision in *Cooper Engg. Ltd. case* [(1975) 2 SCC 661 : 1975 SCC (L&S) 443 : (1976) 1 SCR 361] merely indicates the stage at which an opportunity is to be given but it must not be overlooked that the opportunity has to be asked for. Earlier clear-cut pronouncements of the Court in *R.K. Jain case* [*State Bank of India v. R.K. Jain*, (1972) 4 SCC 304] and *Delhi Cloth & General Mills Co. case* [(1972) 1 SCC 595 : (1972) 3 SCR 29] that this right to adduce additional evidence is a right of the management or the employer and it is to be availed of by a request at appropriate stage and there is no duty in law cast on the Industrial Tribunal or the Labour Court suo motu to give such an opportunity notwithstanding the fact that none was ever asked for are not even departed from. When we examine the matter on principle we would point out that a quasi-judicial tribunal is under no such obligation to acquaint parties appearing before it about their rights more so in an adversary system which these quasi-judicial tribunals have adopted. Therefore, it is crystal clear that the rights which the employer has in law to adduce additional evidence in a proceeding before the Labour Court or Industrial Tribunal either under Section 10 or Section 33 of the Act questioning the legality of the order terminating service must be availed of by the employer by making a proper request at the time when it files its statement of claim or written statement or



makes an application seeking either permission to take a certain action or seeking approval of the action taken by it. *If such a request is made in the statement of claim, application or written statement, the Labour Court or the Industrial Tribunal must give such an opportunity. If the request is made before the proceedings are concluded the Labour Court or the Industrial Tribunal should ordinarily grant the opportunity to adduce evidence.* But if no such request is made at any stage of the proceedings, there is no duty in law on the Labour Court or the Industrial Tribunal to give such an opportunity and if there is no such obligatory duty in law failure to give any such opportunity cannot and would not vitiate the proceedings.”

(emphasis supplied)

35. It appears that earlier to *Shambhu Nath Goyal case* [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85] it was not doubted that the employer could ask for an opportunity to adduce evidence before the proceedings are closed before the Labour Court/Industrial Tribunal. The departure came up only in *Shambhu Nath Goyal case* [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85] .

36. In *Shambhu Nath Goyal* [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85] the main judgment does not refer to the decision of *Cooper Engg. Ltd. case* [(1975) 2 SCC 661 : 1975 SCC (L&S) 443 : (1976) 1 SCR 361] . The said judgment after reproducing the paragraph from *Shankar Chakravarti case* [(1979) 3 SCC 371 : 1979 SCC (L&S) 279 : (1979) 3 SCR 1165] which held that “if the request is made before the proceedings are concluded the Labour Court or the Industrial Tribunal should ordinarily grant the opportunity to adduce evidence” observes that the management is made aware of the workman's contention regarding the defect in domestic enquiry by the written statement of defence filed by him in the application filed by the management under Section 33 of the Act or in the statement of claim filed by the workman under Section 10 of the Act. Noticing that the defect in domestic enquiry is pointed out by the workman in the written statement filed in the Labour Court or Industrial Tribunal and the management has the opportunity to look into that statement before it files its written statement of defence in the enquiry before the Labour Court or the Industrial Tribunal and, therefore, the management could make the request for opportunity in the written statement itself, then, the opinion expressed is that if the management does not choose to do so at that stage, it cannot be allowed to do it at any later stage of the proceedings by filing any application for the purpose which may result in delay, which may lead to wrecking the morale of the workman and compel him to surrender which he may not otherwise do. The only reason which seems to have weighed in coming to the conclusion that the management is barred from making such an application at a later stage is the likely delay of the proceedings.

37. As already noticed, *Cooper Engg. Ltd. case* [(1975) 2 SCC 661 : 1975 SCC (L&S) 443 : (1976) 1 SCR 361] has not been



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considered in the main judgment delivered by Justice Varadarajan in *Shambhu Nath Goyal case* [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85] . In *Cooper Engg. Ltd. case* [(1975) 2 SCC 661 : 1975 SCC (L&S) 443 : (1976) 1 SCR 361] which was also a decision by a Bench of three Judges, it was held that the Labour Court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice and on that decision being pronounced, it will be for the management to decide whether it will adduce any evidence before the Labour Court. If it chooses not to adduce any evidence, it will not be thereafter permissible in any proceedings to raise the issue. It has to be borne in mind that grant of opportunity to an employer to adduce evidence for the first time before the Labour Court/Tribunal is in the interest of both the management and the employee. It is also to be borne in mind that non-grant of such an opportunity may in the ultimate analysis adversely affect the workman. Except the main judgment of *Shambhu Nath Goyal case* [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85] no other decision of this Court was cited before us wherein it may have been held that the prayer of the management to adduce evidence is to be rejected if not made either in the written statement filed to the statement of claim in a reference under Section 10 or at the initial stage of proceedings under Section 33(2)(b) of the Industrial Disputes Act. Even Justice Desai in the concurring judgment does not go that far and opines that if such an application is made it would be open to the Labour Court to examine the question whether it should be granted or not.

38. In various decisions rendered by this Court, it has been held that such a request can be made to the Labour Court/Tribunal before the proceedings are closed. There is no compelling reason to limit the exercise of discretion by the Labour Court/Industrial Tribunal to examine such a prayer on its own merit and decline it if not considered to be bona fide and made to delay the proceedings and to wreck the morale of the workman and compel him to surrender, to use the language of *Shambhu Nath Goyal case* [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85] . Ordinarily such a request when made immediately after the decision of the preliminary issue deserves to be allowed as held in *Shankar Chakravarti case* [(1979) 3 SCC 371 : 1979 SCC (L&S) 279 : (1979) 3 SCR 1165] prior to its elaboration by Justice Desai in *Shambhu Nath Goyal case* [(1983) 4 SCC 491 : 1984 SCC (L&S) 1 : (1984) 1 SCR 85] . If such a request is made soon after the enquiry is held to be invalid and the Labour Court holds it to be bona fide and further holds that no prejudice would be caused to the workman, there is no reason still to shut the employer when it has been rightly held, time and again, that the employer has a right to adduce evidence before the Labour Court in case of no enquiry or invalid enquiry. In such proceedings, pleadings do not deserve to be strictly construed.”

6. As is manifest from the above extracts, the Constitution Bench

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had held that once a Tribunal comes to form the opinion that the domestic enquiry would not sustain, it would be open for the management to seek an opportunity to adduce evidence before the Tribunal itself in order to prove the charges which were levelled against a workman. It was in the aforesaid context that the Constitution Bench held that the aforesaid recognized right of the management would stand preserved notwithstanding liberty having not been specifically claimed in the written statement. All that was additionally observed in this respect was that the Tribunal would be well within its jurisdiction in considering and granting such a request if made soon after its findings rendered on the validity of the domestic enquiry. It was thus clarified that once a Tribunal had come to rule on the validity of the domestic enquiry, it would always be open for the management to submit a request of being afforded an opportunity to prove the charges before the Tribunal itself. The Constitution Bench observed that if such a request were to be made soon after the inquiry had come to be invalidated and the Tribunal was of the opinion that the request was bona fide and not prejudicial to the interest of the workmen, it would have the requisite discretion to permit the employer to lead evidence in support of the charges that had come to be laid.

7. The view so expressed by the majority in paragraph 38 also finds resonance in the concurring opinion which came to be penned by Shivaraj V. Patil, J. and which stands reflected in paragraph 45 of the report and is reproduced hereinbelow:

“45. It is consistently held and accepted that strict rules of evidence are not applicable to the proceedings before the Labour Court/Tribunal but essentially the rules of natural justice are to be observed in such proceedings. Labour Courts/Tribunals have the power to call for any evidence at any stage of the proceedings if the facts and circumstances of the case demand the same to meet the



ends of justice in a given situation. We reiterate that in order to avoid unnecessary delay and multiplicity of proceedings, the management has to seek leave of the court/tribunal in the written statement itself to lead additional evidence to support its action in the alternative and without prejudice to its rights and contentions. But this should not be understood as placing fetters on the powers of the court/tribunal requiring or directing parties to lead additional evidence including production of documents at any stage of the proceedings before they are concluded if on facts and circumstances of the case it is deemed just and necessary in the interest of justice.”

8. However, and before us, it was conceded that the appellant had at no stage made a request to the Tribunal to lead evidence in order to establish the charges which had come to be leveled against the respondent-workmen. It was in the aforesaid backdrop that the learned Single Judge ultimately held that it would be wholly unjust for the Court to provide such an opportunity to the appellant and that too after more than 23 years had passed since the dismissal of the respondents.

9. This is evident from a reading of paragraph 53 of the impugned judgment and which is extracted below:

“53 In view of the law laid down in *Lakshmiddevamma (supra)*, I am of the opinion that, at this stage, it is not open for me to allow the petitioner any opportunity to lead evidence before the learned Tribunal. The submission, of learned counsel for the petitioner, that the charges against the respondent were serious and, if true, would have justified his expunction from service, is undoubtedly well taken. Even so, I cannot close my eyes to the fact that 23 years have passed, since the dismissal of the respondent. Aberrations in character, even if existing, are bound to metamorphose, over nearly two and a half decades, and it would be unrealistic, at this point of time, to unfavourably view the respondent, merely on the basis of the charges that had been levelled against him a quarter of a century ago.”

10. Before us, Mr. Sharma, learned senior counsel, had then sought to contend that once the Tribunal had come to conclude that the domestic enquiry had not been conducted in accordance with the principles of natural justice, it would have been incumbent upon it to remand the matter so as to enable the management to undertake the



inquiry afresh. We find ourselves unable to sustain that submission bearing in mind the special jurisdiction which stands conferred upon a Tribunal in terms of Section 11-A of the **Industrial Disputes Act, 1947**³.

11. The reliance placed upon the decision of the Supreme Court in **State of U.P. v. Rajit Singh**⁴ is clearly misconceived when one bears in mind the fact that the said judgment was concerned with proceedings instituted before a High Court and emanating from an order passed by the Uttar Pradesh State Public Services Tribunal. It was in the aforesaid context that the Supreme Court had observed as follows:

“9. At the outset, it is required to be noted that the enquiry officer held the respondent — delinquent officer guilty for the misconduct alleged and the charges levelled against him of causing monetary loss to the extent of Rs 22,48,964.42 and other charges, which are held to be proved. Thereafter, the disciplinary authority imposed the punishment after giving the respondent opportunity to meet the findings recorded by the enquiry officer and thereafter imposed the punishment. The Tribunal set aside the order of punishment imposed by the disciplinary authority by mainly applying the doctrine of equality and by observing that as other officers involved in the incident were exonerated and/or no action was taken against them, therefore, no action was warranted against the respondent also. The Tribunal has also observed and held that even otherwise, the enquiry proceedings were in breach of the principles of natural justice inasmuch as the relevant documents mentioned in the charge-sheet were not at all supplied to the delinquent officer. The order passed by the Tribunal has been confirmed by the High Court by the impugned judgment and order.”

12. Regard must be had to the fact that the observations appearing in paragraph 9 are liable to be appreciated in light of the Supreme Court considering the procedure that a High Court should have adopted. It is well settled that a High Court while examining a challenge to the validity of disciplinary action does not act as a court



of fact or appeal. A High Court in such cases is principally called upon to examine the validity of the action of the management based on the principles of judicial review. That is clearly not comparable to the width of the jurisdiction which Section 11-A of the Act confers upon a Tribunal and pursuant to which it stands statutorily enabled to examine the charge on merits.

13. The Supreme Court in **Workmen vs. Firestone Tyre & Rubber Co. of India (P) Ltd.**⁵ clarified that Section 11-A of the Act empowers Tribunals to reappraise evidence, including findings from domestic enquiries, and to modify or reduce punishments if deemed unjustified, thereby curtailing managerial prerogatives. Further, it was held that employers retain the right to present fresh evidence before the Tribunal in cases of defective or absent domestic enquiries. The Supreme Court's observations regarding the jurisdiction of a Tribunal under Section 11-A are extracted hereinbelow:

“21. In discussing the nature of the jurisdiction exercised by an Industrial Tribunal when adjudicating a dispute relating to dismissal or discharge, it has been emphasised by this Court in *Indian Iron Steel and Co. Ltd.*, as follows:

“Undoubtedly, the management of a concern has power to direct its own internal administration and discipline; but the power is not unlimited and when a dispute arises, Industrial Tribunals have been given the power to see whether the termination of service of a workman is justified and to give appropriate relief. In cases of dismissal on misconduct, the Tribunal does not, however, act as a Court of appeal and substitute its own judgment for that of the management. It will interfere: (i) when there is want of good faith; (ii) when there is victimisation or unfair labour practice; (iii) when the management has been guilty of a basic error or violation of a principle of natural justice, and (iv) when on the materials the finding is completely baseless or perverse.”

22. This is the decision which has been referred to in the Statement of Objects and Reasons already adverted to. It may be noted that the four circumstances pointed out by this Court justifying interference at the hands of the Tribunal are substantially the same as



laid down by the Labour Appellate Tribunal in *Buckingham and Carnatic Company case*.

23. Following the decision in *Indian Iron and Steel Co. Ltd. case* this Court in *Punjab National Bank Ltd. v. Workmens* [AIR 1960 SC 160 : (1960) 1 SCR 806 : (1959) 2 Lab LJ 666] held:

“In cases where an industrial dispute is raised on the ground of dismissal and it is referred to the tribunal for adjudication, the tribunal naturally wants to know whether the impugned dismissal was preceded by a proper enquiry or not. Where such a proper enquiry has been held in accordance with the provisions of the relevant standing orders and it does not appear that the employer was guilty of victimisation or any unfair labour practice, that tribunal is generally reluctant to interfere with the impugned order.”

It was further emphasised that:

“There is another principle which has to be borne in mind when the tribunal deals with an industrial dispute arising from the dismissal of an employee. We have already pointed out that before an employer can dismiss his employee he has to hold a proper enquiry into the alleged misconduct of the employee and that such an enquiry must always begin with the supply of a specific charge-sheet to the employee.”

The effect of an employer not holding an enquiry has been stated as follows:

“But it follows that if no enquiry has in fact been held by the employer, the issue about the merits of the impugned order of dismissal is at large before the tribunal and, on the evidence adduced before it, the tribunal has to decide for itself whether the misconduct alleged is proved, and if yes, what would be proper order to make. In such a case the point about the exercise of managerial functions does not arise at all.”

24. In *Bharat Sugar Mills Ltd. v. Shri Jai Singh* [(1962) 3 SCR 684, 690 : (1961) 3 FLR 371 : (1961) 1 Lab LJ 644] the question arose regarding the powers of an Industrial Tribunal to permit an employer to adduce evidence before it justifying its action after the domestic enquiry was held to be defective. It was contended on behalf of the workmen that when once the domestic enquiry was found to be defective, the tribunal had no option but to dismiss the application filed by an employer for approval and that it cannot allow an employer to adduce evidence before it justifying its action. This Court rejected this contention as follows:

“When an application for permission for dismissal is made on the allegation that the workman has been guilty of some misconduct for which the management considers dismissal the appropriate punishment the Tribunal has to satisfy itself that there is a prima facie case for such dismissal. Where there has been a proper enquiry by the



management itself the Tribunal, it has been settled by a number of decisions of this Court, has to accept the finding arrived at in that enquiry unless it is perverse and should give the permission asked for unless it has reason to believe that the management is guilty of victimisation or has been guilty of unfair labour practice or is acting mala fide. But the mere fact that no enquiry has been held or that the enquiry has not been properly conducted cannot absolve the Tribunal of its duty to decide whether the case that the workman has been guilty of the alleged misconduct has been made out. The proper way of performing this duty where there has not been a proper enquiry by the management is for the Tribunal to take evidence of both sides in respect of the alleged misconduct. When such evidence is adduced before the Tribunal the management is deprived of the benefit of having the findings of the domestic tribunal being accepted as prima facie proof of the alleged misconduct unless the finding is perverse and to prove to the satisfaction of the Tribunal itself that the workman was guilty of the alleged misconduct. We do not think it either just to the management or indeed even fair to the workman himself that in such a case the Industrial Tribunal should refuse to take evidence and thereby drive the management to make a further application for permission after holding a proper enquiry and deprive the workman of the benefit of the Tribunal itself being satisfied on evidence adduced before it that he was guilty of the alleged misconduct.”

25. In the above decision, this Court quoted with approval the decision of the Labour Appellate Tribunal in *Buckingham and Carnatic Company Ltd. case*, holding that the materials on which a tribunal acts may consist of—

“(1) entirely the evidence taken by the management at the enquiry and the proceedings of the enquiry, or

(2) that evidence and in addition thereto further evidence led before the Tribunal, or

(3) evidence placed before the Tribunal for the first time in support of the charges.”

It was further emphasised that:

“For a long time now, it has been settled law that in the case of an adjudication of a dispute arising out of a dismissal of a workman by the management (as distinct from an application for permission to dismiss under Section 33), evidence can be adduced for the first time before the Industrial Tribunal. The important effect of the omission to hold an enquiry is merely this, that the Tribunal would not have to consider only whether there was a prima facie case but would decide for itself on the evidence adduced whether the charges have really been made.”



The observations made by this Court in *Punjab National Bank Ltd. case* were quoted with approval. It was further held that the reasons for which it is proper for a Tribunal to take evidence itself as regards the alleged misconduct when adjudicating upon a dispute arising out of an order of dismissal are equally present in a case where the management makes an application for permission to dismiss an employee without holding a proper enquiry. Ultimately, this Court upheld the order of the Tribunal allowing the employer to adduce evidence before it in support of its application for permission to dismiss an employee even though the domestic enquiry held by it was held to be highly defective.

26. The powers of a tribunal when a proper enquiry has been held by an employer as well as the procedure to be adopted when no enquiry at all has been held or an enquiry held was found to be defective, again came up for consideration in *Management of Ritz Theatre (P) Ltd. v. Workmens* [AIR 1963 SC 295 : (1963) 3 SCR 461 : (1962) 2 Lab LJ 498] Regarding the powers of a Tribunal when there has been a proper and fair enquiry, it was held:

“It is well settled that if an employer serves the relevant charge or charges on his employee and holds a proper and fair enquiry, it would be open to him to act upon the report submitted to him by the enquiry officer and to dismiss the employee concerned. If the enquiry has been properly held, the order of dismissal passed against the employee as a result of such an enquiry can be challenged if it is shown that the conclusions reached at the departmental enquiry were perverse or the impugned dismissal is vindictive or mala fide, and amounts to an unfair labour practice. In such an enquiry before the Tribunal, it is not open to the Tribunal to sit in appeal over the findings recorded at the domestic enquiry. This Court has held that when a proper enquiry has been held, it would be open to the enquiry officer holding the domestic enquiry to deal with the matter on the merits bona fide and come to his own conclusion.”

Again regarding the procedure to be adopted when there has been no enquiry or when there has been a defective enquiry, it was stated:

“It has also been held that if it appears that the departmental enquiry held by the employer is not fair in the sense that proper charge had not been served on the employee or proper or full opportunity had not been given to the employee to meet the charge, or the enquiry has been affected by other grave irregularities vitiating it, then the position would be that the Tribunal would be entitled to deal with the merits of the dispute as to the dismissal of the employee for itself. The same result follows if no enquiry has been held at all. In other words, where the Tribunal is dealing with a dispute relating to the dismissal of an industrial employee, if it is satisfied that no enquiry has been held or the enquiry which has been held is not proper



or fair or that the findings recorded by the enquiry officer are perverse, the whole issue is at large before the Tribunal. This position also is well-settled.”

It was further held that it is only where a Tribunal is satisfied that a proper enquiry has not been held or that the enquiry having been held properly the finding recorded is perverse that the Tribunal derives jurisdiction to deal with merits of the dispute, when permission has to be given to an employer to adduce additional evidence.

27. The right of an employer to lead evidence before the Tribunal to justify his action was again reiterated in *Khardah Co. Ltd. v. Workmen* [AIR 1964 SC 719 : (1964) 3 SCR 506 : (1963) 2 Lab LJ 452] as follows:

“It is well-settled that if the enquiry is held to be unfair, the employer can lead evidence before the Tribunal and justify his action, but in such a case, the question as to whether the dismissal of the employee is justified or not, would be open before the Tribunal, and the Tribunal will consider the merits of the dispute and come to its own conclusion without having any regard for the view taken by the management in dismissing the employee.”

28. In *Workmen of Motipur Sugar Factory (P) Ltd. v. Motipur Sugar Factory* [AIR 1956 SC 1803 : (1965) 3 SCR 588 : (1965) 2 Lab LJ 162] the employer had charge-sheeted certain workmen and without conducting any enquiry, as required by the standing orders, passed orders discharging the workmen. Before the Tribunal, the employer adduced evidence justifying the action taken against the workmen. The workmen were also given an opportunity to adduce evidence in rebuttal. After a consideration of such evidence, the Tribunal held that the workmen were guilty of misconduct alleged against them and that the orders of discharge passed by the employer were fully justified. Before this Court it was contended on behalf of the workmen that when no enquiry whatsoever had been conducted by the employer, as required by the standing orders, before passing an order of dismissal or discharge, the Tribunal had no jurisdiction to hold an enquiry itself by permitting the employer to adduce evidence before it for the first time. In rejecting this contention, it was held:

“It is now well-settled by a number of decisions of this Court that where an employer has failed to make an enquiry before dismissing or discharging a workman it is open to him to justify the action before the tribunal by leading all relevant evidence before it. In such a case the employer would not have the benefit which he had in cases where domestic enquiries have been held. The entire matter would be open before the tribunal which will have jurisdiction not only to go into the limited question open to a tribunal where domestic enquiry has been properly held ... but also to satisfy itself on the facts adduced before it by the employer whether the dismissal or discharge was justified.... If the



enquiry is defective or if no enquiry has been held as required by standing orders, the entire case would be open before the Tribunal and the employer would have to justify on facts as well that its order of dismissal or discharge was proper.... A defective enquiry in our opinion stands on the same footing as no enquiry and in either case the tribunal would have jurisdiction to go into the facts and the employer would have to satisfy the tribunal that on facts the order of dismissal or discharge was proper.”

28-A. The reasons for allowing an employer to lead evidence before the Tribunal justifying his action have been stated thus:

“If it is held that in cases where the employer dismisses his employee without holding an enquiry, the dismissal must be set aside by the Industrial Tribunal only on that ground, it would inevitably mean that the employer will immediately proceed to hold the enquiry and pass an order dismissing the employee once again. In that case, another industrial dispute would arise and the employer would be entitled to rely upon the enquiry which he had held in the meantime. This course would mean delay and on the second occasion it will entitle the employer to claim the benefit of the domestic enquiry. On the other hand, if in such cases the employer is given an opportunity to justify the impugned dismissal on the merits of his case being considered by the tribunal for itself and that clearly would be to the benefit of the employee. That is why this Court has consistently held that if the domestic enquiry is irregular, invalid or improper, the tribunal may give an opportunity to the employer to prove his case and in doing so the tribunal tries the merits itself. This view is consistent with the approach which industrial adjudication generally adopts with a view to do justice between the parties without relying too much on technical considerations and with the object of avoiding delay in the disposal of industrial disputes. Therefore, we are satisfied that no distinction can be made between cases where the domestic enquiry is invalid and those where the enquiry has in fact been held.”

29. The rights of an employer to avail itself of an opportunity to satisfy the Tribunal by adducing evidence, when an enquiry held by it was found to be defective or when no enquiry at all has been held, have been stated in *State Bank of India v. R.K. Jain* [(1972) 1 SCR 755] as follows:

“It should be remembered that when an order of punishment by way of dismissal or termination of service is effected by the management, the issue that is referred is whether the management was justified in discharging and terminating the service of the workman concerned and whether the workman is entitled to any relief. In the present case, the actual issue that was referred for adjudication to the Industrial Tribunal has already been quoted in the earlier



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part of the judgment. There may be cases where an inquiry has been held preceding the order of termination or there may have been no inquiry at all. But the dispute that will be referred is not whether the domestic inquiry has been conducted properly or not by the management, but the larger question whether the order of termination, dismissal or the order imposing punishment on the workman concerned is justified. Under those circumstances it is the right of the workman to plead all infirmities in the domestic inquiry, if one has been held and also to attack the order on all grounds available to him in law and on facts. Similarly the management has also a right to defend the action taken by it on the ground that a proper domestic inquiry has been held by it on the basis of which the order impugned has been passed. It is also open to the management to justify on facts that the order passed by it was proper. But the point to be noted is that the inquiry that is conducted by the Tribunal is a composite inquiry regarding the order which is under challenge. If the management defends its action solely on the basis that the domestic inquiry held by it is proper and valid and if the Tribunal holds against the management on that point, the management will fail. On the other hand, if the management relies not only on the validity of the domestic inquiry, but also adduce evidence before the Tribunal justifying its action, it is open to the Tribunal to accept the evidence adduced by the management and hold in its favour even if its finding is against the management regarding the validity of the domestic inquiry. It is essentially a matter for the management to decide about the stand that it proposes to take before the Tribunal. It may be emphasised, that it is the right of the management to sustain its order by adducing also independent evidence before the Tribunal. It is a right given to the management and it is for the management to avail itself of the said opportunity.”

30. This Court in its recent decision in *Delhi Cloth and General Mills Co. Ltd. v. Ludh Budh Singh* [(1972) 1 SCC 595 : (1972) 1 LLJ 180] after a review of all the earlier cases, has summarised the principles flowing out of those decisions. It has been emphasized that when no enquiry has been held by an employer or when the enquiry held has been found to be defective, the employer has got a right to adduce evidence before the Tribunal justifying its action. The stage at which the employer should invoke the jurisdiction of the Tribunal to allow him to adduce evidence before it, has also been discussed in the said decision.

32. From those decisions, the following principles broadly emerge:

“(1) The right to take disciplinary action and to decide upon the quantum of punishment are mainly managerial functions, but if a dispute is referred to a Tribunal, the latter has power to see if action of the employer is justified.

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(2) Before imposing the punishment, an employer is expected to conduct a proper enquiry in accordance with the provisions of the Standing Orders, if applicable, and principles of natural justice. The enquiry should not be an empty formality.

(3) When a proper enquiry has been held by an employer, and the finding of misconduct is a plausible conclusion flowing from the evidence, adduced at the said enquiry, the Tribunal has no jurisdiction to sit in judgment over the decision of the employer as an appellate body. The interference with the decision of the employer will be justified only when the findings arrived at in the enquiry are perverse or the management is guilty of victimisation, unfair labour practice or mala fide.

(4) Even if no enquiry has been held by an employer or if the enquiry held by him is found to be defective, the Tribunal in order to satisfy itself about the legality and validity of the order, had to give an opportunity to the employer and employee to adduce evidence before it. It is open to the employer to adduce evidence for the first time justifying his action, and it is open to the employee to adduce evidence contra.

(5) The effect of an employer not holding an enquiry is that the Tribunal would not have to consider only whether there was a prima facie case. On the other hand, the issue about the merits of the impugned order of dismissal or discharge is at large before the Tribunal and the latter, on the evidence adduced before it, has to decide for itself whether the misconduct alleged is proved. In such cases, the point about the exercise of managerial functions does not arise at all. A case of defective enquiry stands on the same footing as no enquiry.

(6) The Tribunal gets jurisdiction to consider the evidence placed before it for the first time in justification of the action taken only, if no enquiry has been held or after the enquiry conducted by an employer is found to be defective.

(7) It has never been recognised that the Tribunal should straightaway, without anything more, direct reinstatement of a dismissed or discharged employee, once it is found that no domestic enquiry has been held or the said enquiry is found to be defective.

(8) An employer, who wants to avail himself of the opportunity of adducing evidence for the first time before the Tribunal to justify his action, should ask for it at the appropriate stage. If such an opportunity is asked for, the Tribunal has no power to refuse. The giving of an opportunity to an employer to adduce evidence for the first time before the Tribunal is in the interest of both the



management and the employee and to enable the Tribunal itself to be satisfied about the alleged misconduct.

(9) Once the misconduct is proved either in the enquiry conducted by an employer or by the evidence placed before a Tribunal for the first time, punishment imposed cannot be interfered with by the Tribunal except in cases where the punishment is so harsh as to suggest victimisation.

(10) In a particular case, after setting aside the order of dismissal, whether a workman should be reinstated or paid compensation is, as held by this Court in *Management of Panitole Tea Estate v. Workmens* [(1971) 1 SCC 742] within the judicial decision of a Labour Court or Tribunal.”

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33. The question is whether Section 11-A has made any changes in the legal position mentioned above and if so, to what extent? The Statement of Objects and Reasons cannot be taken into account for the purpose of interpreting the plain words of the section. But it gives an indication as to what the legislature wanted to achieve. At the time of introducing Section 11-A in the Act, the legislature must have been aware of the several principles laid down in the various decisions of this Court referred to above. The object is stated to be that the Tribunal should have power in cases, where necessary, to set aside the order of discharge or dismissal and direct reinstatement or award any lesser punishment. The Statement of Objects and Reasons has specifically referred to the limitations on the powers of an Industrial Tribunal, as laid down by this Court in *Indian Iron and Steel Co. Ltd. case.*

34. This will be a convenient stage to consider the contents of Section 11-A. To invoke Section 11-A, it is necessary that an industrial dispute of the type mentioned therein should have been referred to an Industrial Tribunal for adjudication. In the course of such adjudication, the Tribunal has to be satisfied that the order of discharge or dismissal was not justified. If it comes to such a conclusion, the Tribunal has to set aside the order and direct reinstatement of the workman on such terms as it thinks fit. The Tribunal has also power to give any other relief to the workman including the imposing of a lesser punishment having due regard to the circumstances. The proviso casts a duty on the Tribunal to rely only on the materials on record and prohibits it from taking any fresh evidence. Even a mere reading of the section, in our opinion, does indicate that a change in the law, as laid down by this Court has been effected. According to the workmen the entire law has been completely altered; whereas according to the employers, a very minor change has been effected giving power to the Tribunal only to alter the punishment, after having held that the misconduct is proved. That is, according to the employers, the Tribunal has a mere power to alter the punishment after it holds that the misconduct is proved. The workmen, on the other hand, claim that the law has been re-written.



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35. We cannot accept the extreme contentions advanced on behalf of the workmen and the employers. We are aware that the Act is a beneficial piece of legislation enacted in the interest of employees. It is well settled that in construing the provisions of a welfare legislation, courts should adopt, what is described as a beneficent rule of construction. If two constructions are reasonably possible to be placed on the section, it follows that the construction which furthers the policy and object of the Act and is more beneficial to the employees, has to be preferred. Another principle to be borne in mind is that the Act in question which intends to improve and safeguard the service conditions of an employee, demands an interpretation liberal enough to achieve the legislative purpose. But we should not also lose sight of another canon of interpretation that a statute or for the matter of that even a particular section, has to be interpreted according to its plain words and without doing violence to the language used by the legislature. Another aspect to be borne in mind will be that there has been a long chain of decisions of this Court, referred to exhaustively earlier, laying down various principles in relation to adjudication of disputes by industrial courts arising out of orders of discharge or dismissal. Therefore it will have to be found from the words of the section whether it has altered the entire law, as laid down by the decisions, and, if so, whether there is a clear expression of that intention in the language of the section.

36. We will first consider cases where an employer has held a proper and valid domestic enquiry before passing the order of punishment. Previously the Tribunal had no power to interfere with its finding of misconduct recorded in the domestic enquiry unless one or other infirmities pointed out by this Court in *Indian Iron & Steel Co. Ltd. case* existed. The conduct of disciplinary proceedings and the punishment to be imposed were all considered to be a managerial function with which the Tribunal had no power to interfere unless the finding was perverse or the punishment was so harsh as to lead to an inference of victimisation of unfair labour practice. This position, in our view, has now been changed by Section 11-A. The words “in the course of the adjudication proceeding, the Tribunal is satisfied that the order of discharge or dismissal was not justified” clearly indicate that the Tribunal is now clothed with the power to reappraise the evidence in the domestic enquiry and satisfy itself whether the said evidence relied on by an employer establishes the misconduct alleged against a workman. What was originally a plausible conclusion that could be drawn by an employer from the evidence, has now given place to a satisfaction being arrived at by the Tribunal that the finding of misconduct is correct. The limitations imposed on the powers of the Tribunal by the decision in *Indian Iron & Steel Co. Ltd. case*, can no longer be invoked by an employer. The Tribunal is now at liberty to consider not only whether the finding of misconduct recorded by an employer is correct; but also to differ from the said finding if a proper case is made out. What was once largely in the realm of the satisfaction of



the employer, has ceased to be so; and now it is the satisfaction of the Tribunal that finally decides the matter.

37. If there has been no enquiry held by the employer or if the enquiry is held to be defective, it is open to the employer even now to adduce evidence for the first time before the Tribunal justifying the order of discharge or dismissal. We are not inclined to accept the contention on behalf of the workmen that the right of the employer to adduce evidence before the Tribunal for the first time recognised by this Court in its various decisions, has been taken away. There is no indication in the section that the said right has been abrogated. If the intention of the legislature was to do away with such a right, which has been recognised over a long period of years, as will be noticed by the decisions referred to earlier, the section would have been differently worded. Admittedly, there are no express words to that effect, and there is no indication that the section has impliedly changed the law in that respect. Therefore, the position is that even now the employer is entitled to adduce evidence for the first time before the Tribunal even if he had held no enquiry or the enquiry held by him is found to be defective. Of course, an opportunity will have to be given to the workman to lead evidence contra. The stage at which the employer has to ask for such an opportunity, has been pointed out by this Court in *Delhi Cloth and General Mills Co. Ltd. case*. No doubt, this procedure may be time consuming, elaborate and cumbersome. As pointed out by this Court in the decision just referred to above, it is open to the Tribunal to deal with the validity of the domestic enquiry, if one has been held as a preliminary issue. If its finding on the subject is in favour of the management, then there will be no occasion for additional evidence being cited by the management. But if the finding on this issue is against the management, the Tribunal will have to give the employer an opportunity to cite additional evidence justifying his action. This right in the management to sustain its order by adducing independent evidence before the Tribunal, if no enquiry has been held or if the enquiry is held to be defective, has been given judicial recognition over a long period of years.

38. All parties are agreed that even after Section 11-A, the employer and employee can adduce evidence regarding the legality or validity of the domestic enquiry, if one had been held by an employer.

39. Having held that the right of the employer to adduce evidence continues even under the new section, it is needless to state that, when such evidence is adduced for the first time, it is the Tribunal which has to be satisfied on such evidence about the guilt or otherwise of the workman concerned. The law, as laid down by this Court that under such circumstances, the issue about the merits of impugned order of dismissal or discharge is at large before the Tribunal and that it has to decide for itself whether the misconduct alleged is proved, continues to have full effect. In such a case, as laid down by this Court, the exercise of managerial functions does not arise at all.



40. Therefore, it will be seen that both in respect of cases where a domestic enquiry has been held as also in cases where the Tribunal considers the matter on the evidence adduced before it for the first time, the satisfaction under Section 11-A, about the guilt or otherwise of the workman concerned, is that of the Tribunal. It has to consider the evidence and come to a conclusion one way or other. Even in cases where an enquiry has been held by an employer and a finding of misconduct arrived at, the Tribunal can now differ from that finding in a proper case and hold that no misconduct is proved.”

14. As would be manifest from the principles identified and which expound upon the scope of the power vested in the Tribunal by virtue of Section 11-A of the Act, it becomes a body duly empowered to try the charges on merits, admit evidence and come to an independent conclusion on whether an allegation of misconduct is found to be proved. Contrary to the above, a court exercising the power of judicial review is principally concerned with issues such as procedural fairness and the reasonableness of the ultimate decision that may be assailed. Such a court is not supposed to evaluate the decision of the employer on merits or undertake a trial. The submission, therefore, that the Tribunal should have remanded the matter is clearly misconceived. In fact, if the Tribunal had adopted such a course, it could have been legitimately charged with abdication and a failure to discharge a vital and salutary power conferred upon it.

15. That only leaves us to evaluate the merits of the decision of the learned Single Judge in substituting a direction of full back wages by the award of lump sum compensation. The reasons assigned by the learned Single Judge in this regard are as follows:

“55 The question, then, arises as to the quantum of "lump-sum compensation" that should be awarded to the respondent. Given the fact that the respondent has not been serving the petitioner, since the date of his dismissal from service, I am of the view that the interests of justice would be subserved if the respondent were awarded 75% of the back wages to which he would be entitled, till the date of his superannuation (which, I am informed, is 2 years hence). The wages payable to employees of the petitioner-Bank are



governed by the Bipartite Settlements, arrived at, from time to time, between the Bank and the employees. In working out back wages that would have been payable to the respondent - and, consequently, 75% thereof - periodical revisions of the wages payable, on the basis of Bipartite Settlements arrived at from time to time, would be taken into account. At the same time, pursuant to interim orders passed by this court under Section 17-B of the Act, a certain monthly amount has been paid to the respondent, by the petitioner. Though the respondent has expressed his dissatisfaction therewith, in various interlocutory applications that have been filed by him from time to time, it is not necessary to enter into the said applications now, in view of the order that is being passed today. Suffice it to state that the payment to be made to the respondent, as per this judgement, would be so made after deducting the amounts paid to the respondent under Section 17-B of the Act. Further, in case the petitioner is able to establish that the respondent has, at any point of time after his dismissal from service by the petitioner, been in gainful employment, the amount earned by the respondent in the course of such employment would also be deductible, while making payment to him in terms of this judgement.”

16. In our considered opinion, the learned Single Judge has essentially undertaken an exercise to balance the interest of respective sides taking into consideration the length of service rendered and the wages which were liable to be paid in terms of the Bipartite Settlements which applied. The view so taken cannot possibly be said to suffer from any perversity or manifest illegality and which alone would have warranted interference in this appeal.

17. Accordingly, and for all the aforesaid reasons, the appeal fails and shall stand dismissed.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

DECEMBER 10, 2024/DR