The Silk and Art Silk Mills Association Ltd.

Vs

Mill Mazdoor Sabha

Bombay Silk Mills Ltd.

Vs

Milk Mazdoor Sabha

Civil Appeal Nos. 6 (Nl) and 277, (Nl) Of 1972

(P. jagmohan Reddy, K. K. Mathew, C. A. Vaidialingam, JJ )

19.04.1972

JUDGMENT

MATHEW, J. -

1. These two appeals, by special leave, are directed against the supplementary award, dated October 15, 1971, passed by the Industrial Court, Maharashtra, Bombay in miscellaneous applications (IC) Nos. 1, 2 and 3 of 1970, filed by the respondent, The Mill Mazdoor Sabha, hereinafter, called the 'Sabha'. By the supplementary award, The Industrial Court has modified an existing award of Industrial Court, of Maharashtra, Bombay, dated April 25, 1962, passed in reference (IC) Nos. 131, 138, 139 and 155 of 1961, and published in Maharashtra Government Gazette, dated June 14, 1962, by directing with retrospective effects from January 1, 1971, that the employees in Silk and Art Silk Industry who were concerned in the dispute shall be granted dearness allowance at the rate of 99 per cent. neutralization of the rise in Bombay Consumer Price Index 106 (old series) on the basis of the minimum wage of Rs. 30/- per month of 26 working days.

2. We will deal with appeal No. 276 of 1972 first. The Appellant is the Silk and Art Silk Mills' Association, Ltd., a public company, having its registered office in Bombay, hereinafter called 'the "Association'. For the purpose of Bombay Industrial Relation Act, 1946, the Association was recognised under Section 27, read with Section 3(23) of that Act as the Association of Employer in Silk and Art Silk Textile Industries within the local area of Greater Bombay. Silk Textile Industry was started in India sometime in 1933 and the Association came into being in 1939, with 16 members having 2,000 looms. Till 1965, the Association was registering as members only mills having 25 or more looms. Thereafter, it began to register smaller units also as its members. Such smaller units numbered 308 with 2, 326 looms in March, 1969, The total number of mills within and outside the State of Maharashtra which were members of the Association on March 31, 1969, was 512 with the total 20,200 looms. According to the Association, out of 512 units which were members, a large number of units numbering about 444 were grey units, which means, that none of these units has it on raw materials and that they have not got any equipments for dyeing, bleaching or otherwise finishing their products.

3. On February 6, 1970, when Miscellaneous Application (IC) No. 1 was filed, the Association had,

as its members, about 325 units of employers in the arts silk industry within the local area of Greater Bombay. Out of these 325 employer-units, 90 employer-units alone were concerned with the Miscellaneous Application (IC) No. 1 of 1970, as that application sought modification of the award, dated April 25, 1962 in reference Nos. (IC) 131, 138, 139 and 155 of 1961 which governed only the 90 units of the Art Silk Industry. In this case, we are directly concerned with 55 member-units only, as the remaining 35 unit had gone out of business between April 25, 1962 and February, 5, 1970.

4. There were two previous decisions binding on these units regarding dearness allowance. One was the award passed in reference No. 97 of 1951, which granted neutralization to the extent of 75 per cent. rise in the Bombay Consumer Price Index 106 (old series). The other was a settlement arrived at during the pendency of Miscellaneous Application (IC) No. 3 of 1957, which modified the award in reference No. 97 of 1951 by raising the percentage of neutralization to 80 per cent. with effect from June 1, 1957.

5. The Sabha is recognised under Section read with Section 3(32) of the Bombay Industrial Relations Act as the representative Union of employees in the Silk and Art Silk Industry within the local area of Greater Bombay.

6. The demand of the Sabha in miscellaneous Application (IC) No. 1 of 1970 was, that "the employees shall be granted with from May 1, 1970, dearness allowance at the rate 100 per cent. neutralization of the rise in the Bombay Consumer price index 106 (old series) on the basis of the minimum wage in force at present, namely Rs. 36.50 per month of 26 working days". As already stated, the application was in effect, to modify the award passed on April 25, 1962, in reference (IC) Nos. 131, 138, 139 and 155 of 1961; that award provided that the employees covered by the references should be given an ad hoc increase of Rs. 5.20 per month of 26 working days over their wages at that time, that the increase should be in force for two years from February 1, 1962, that thereafter, the increase should be Rs. 6.50 per month of 26 working days instead of Rs. 5.20 and that will continue for a further period of 2 years. The award rejected the prayer for increased rate of dearness allowance.

7. The ground on which the Sabha claimed 100 per cent. neutralization were, that the total pay packet of the employees in the industry was far lower than the minimum need of the workmen and also less than that of the employees of other industries in the region, that there has been a steep rise in the cost of living since the last revision of basic wages and a greater rise in cost of living since the decision fixing neutralization at 80 per cent. of the basic wage of Rs. 30/- per month for 26 working days, that the employer-units have the capacity to bear the additional burden as the art-silk industry in the region has prospered and established itself as a stable one with good prospects.

8. The main contentions of the Association were that the total pay packet of the workmen in Rayon and Artificial Silk industry in the local area of Greater Bombay was Rs. 190.12 per month of 26 working days, that dearness allowance to the extent of 80 per cent. neutralization was automatically responsive to the rise in the cost of living and, therefore, there was no real fall in the pay packet consequent on the rise in the cost of living, that the workmen had received an ad hoc increase of Rs. 5.20 per month of 26 working days from February 1, 1962, and that this has been further raised to Rs. 6.50 from February 1, 1964, that the base for neutralization which was Rs. 30/- should not and ought not to be changed to Rs. 36.50 as demanded by the Sabha, that the demand was beyond the capacity of most of the 55 units concerned, that the dearness allowance paid in the other industries in that region cannot furnish any relevant criterion as the financial positions of these units were quite different, that over the years, the position of the industry has steadily deteriorated, that on

account of the paucity of foreign exchange, restrictions on import of the required machinery, the non availability of the of the necessary types of raw material, the high cost of yarn, the heavy excise duty on indigenous yarn, the industry has been declining, that the import of nylon yarn was canalised through the State Trading Corporation of India and it kept for itself a very high profit margin, that the price of the raw materials in the industry has gone up, that prior to March, 1970, the excise duty on processed yarn and artificial silk fabric varied from 9 paise to 30 paise per square metre whereas from March, 1970, onwards, there was a steep rise in the excise duty per square metre and, therefore the industry cannot bear any further burden, that in any event, the demand for 100 per cent. neutralization is unwarranted.

9. As already stated the Industrial Court, after evaluating the materials produced by parties, came to the conclusion that the employees in the Silk and Art Silk Industry should be granted dearness allowance at the rate of 99 percent. neutralization of the rise of the Bombay Consumer Price Index 106 (old series) on the basis of minimum basic wage of Rs. 30/- per month of 26 working days with effect from January 1, 1971.

10. The Court found that at the time when the wages were raised in 1962, the consumer price index stood at 429, that there has been a steep rise in the cost of living as reflected in the Bombay Consumer Price Index - in May 1970 it stood at 799 - and on the date of the award it stood at 839, and so, there was a fall wages by 39 paise per day of the lowest class of workers. The Court, therefore came to the conclusion that the demand for neutralization of the rise of the cost of living was reasonable. It further found that Exhibit U-8, which is a comparative table showing the minimum basic wages and dearness allowance paid in other industries in that region was a relevant document as it indicated the trend other industries in that region to allow full neutralization on account of the rise in the cost of the living. The Court then proceeded to assess the financial capacity of the employer-units with particular references to their business, the capital invested, the profits earned, the standing of the industry, the strength of the labour force employed, the positions of the reserves, the dividend declared and the prospects of the industry. The association, although it represented 55 employer-units, produced no data as regards the financial capacity of 27 units in spite of clear directions of the Court, and so, the Court, on the basis of the materials placed before it by the other units, came to the conclusion that the art and art-silk industry has prospered and has established itself, that the prospect of the industry were bright and that the financial position of the 28 units which produced their balance sheets and profit and loss accounts or other documents to show their gross profits was such that they could afford to bear the additional burden.

11. For reaching the conclusion that the industry is prosperous and has a bright future, the Court relied on the speech made by the Chairman of Silk and Art Silk Mills Association at the 30th Annual Meeting in 1969, in which he said that the man-made fibre industry had made a remarkable progress during the last decade, that the production during the year 1969 exceeded the Third Plan target by over 25 per cent., that there was a rise in the per capita consumption of fabrics, that rapid progress was expected in the production of non-cellulosic yarns and that the total demand in relation to the years 1969 was likely to increase by 41 per cent. by the year 1973-74 and by 110 per cent. by the year 1978-79. The Court also relied upon the fact that actual export in 1970 exceeded the export in the previous three years, the fact that the production has substantially increased in the first six months of 1970, that it was as much as 525.77 million metres compared to the total production of 892.67 million metres in 1969, and the fact that the total production of the art-silk yarn has reached the figure of 114.680 thousand kilograms compared to 106.480 thousand in 1969. The Court estimates that export of Rayon fabrics and synthetics textiles will reach Rs. 26.50 crores a year by 1973-74. Although excise duties has been increased, the Court found that it had not adversely

affected the industry in any substantial degree as the economic incidence of the burden of the excise duty was passed on to the consumer. As regards the financial capacity of units, the Court relied on Exhibit U-9 which is an analysis of the profit and loss accounts of 28 mills and Exhibit U-10, which is a consolidated statement showing the financial condition of these mills and Exhibits U-11, the statement regarding the bonus paid by the mills which did not file their balance-sheets and profit and loss accounts and Exhibit U-12, a statement showing the interest paid by some of the units which had filed their balance-sheet and Exhibit U-13, a statement showing profitability ratio for art-silk industry in Bombay and Exhibit U-14, a comparative statement of the profitability ratio in cotton textile, engineering and chemical industry. The Court found from Exhibit U-9 that there was an increase in the paid up capital of 44.07 lakhs from 1965, an increase in the reserve amounting to 32.96 lakhs, an increase in the gross block amounting to Rs. 285.54 lakhs and an increase in the net block of Rs. 140.63 lakhs from 1965 to 1968. From the figures given in Exhibits U-9 and U-10, the Court found that, after providing for depreciation to the total paid up capital, the profit would work out at 40.02 per cent. and that after providing for depreciation to the total paid-up capital and reserve, it would work out at 21.10 per cent. From the large amount of interest paid by some of the units as disclosed in Exhibit U-12, the Court inferred that these units are under-capitalised but that, at the same time, they preferred to borrow money at the current rate of interest. The Court also found from Exhibit U-11 that 17 mills which did not file their balance-sheets or loss accounts were in a position to pay bonus in excess of the 4 per cent. which is the statutory minimum under the Payment of Bonus Act and, therefore, these units must have been making profits and, as their present financial position was not shown to have become worse, they had the financial capacity to bear the additional burden.

12. Mr. S. T. Desai for the appellant submitted that the Industrial Court drew an adverse inference against the 28 units although they had produced their balance-sheet and profit and loss accounts on the ground that the 27 mills did not produce any to show their financial capacity to bear the additional and that that was unjustified. He argued that so far so the 28 mills which had produced their balance-sheets and profits and loss accounts, there should have been an appreciation of the materials placed before the Court on their merit and no adverse inference should have been drawn against them because the other units did not place any relevant materials as regards their financial capacity. In other words, his argument was that as the 28 mills had produced relevant documents to show their financial capacity, the Court should not have drawn any adverse inference as against them merely form the non-production of the relevant documents by the other units. We do not think that there is any substance in this argument.

13. As already stated, the Association represented 55 units of employers and out of the 55 units, only 28 units produced their balance-sheets and profit and loss accounts. Statements were filed by 17 units (Exhibit C-185 to 201) undertaking that they would abide by the information and the balance-sheet and profit and loss account supplied by the 28 mills and praying for decision of dispute on the basis of the information and statements of accounts so supplied. The remaining 10 mills orally agreed that they would also abide by this statement and balance-sheets supplied by the 28 mills and for deciding the dispute on that basis. Therefore, an adjudication by the industrial court as regards to the rates of neutralization to be allowed on the basis of financial capacity of the 28 units as guaged from the balance-sheets and profit and loss accounts produced by 28 mills was quite proper. To put it differently, the award in so far as it concerned the 28 units, proceeded on the basis of their financial capacity as guaged from the balance-sheets and profit and loss accounts produced by them and for the other materials in the case. They can, therefore, have no reason from complain, that the Court drew any adverse inference as regards them from the non-production of relevant materials in possession of other employer units. And, as regards the 27 employer-units which did

not supply any material with respect to their financial capacity, they cannot also have any reason for complain in view of their undertaking to abide by the decision of the Industrial Court on the basis of materials furnished by the 28 units. The only reason why they did not furnish the basic information as regards their financial capacity in spite of the direction of the Court, is that the information, if furnished, would go against them. We are satisfied that the award was based on the materials produced in the case so far as the 28 units are concerned and not on any adverse inference drawn from the non production of the relevant materials by the 27 units.

14. Mr. Desai contended that the position of the industry is not stable and that its prospects are bleak. He said that the Court did not give due weight to Exhibits C-1 to C-4 and C-15, in reaching the conclusion that the position of the industry was stable. Exhibit C-1 is a statement showing the number of mills and looms owned by them as on April 1, 1970. Exhibit C-2 is a statement showing the number of member of the Association and their looms. Exhibit C-3 is a statement showing the looms run by member-mills of the Association as on April 1, 1970. Exhibit C-4 is a statement showing the number of grey and composite units in the industry and their looms. Exhibit C-15 is a statement concerning 25 mills. It shows the number of looms installed, average number of loom-shifts worked per month, average production and average export per month during the 4 years, namely, 1966 to 1969. Exhibits C-1 to C-4 do not throw much light upon the question in controversy as they only show the all-India figures. Exhibit C-13 was taken into consideration by the Industrial Court. But the Court did not place much reliance upon it as it was of opinion that the data furnished by the balance-sheets and profit and loss account was more relevant.

15. Counsel submitted that the number of looms has gone down, that the cost production has gone up, that export of manufactured silk has dwindled, that sales have declined and therefore, the profits of the units have gone from 1965 to 1968. Counsel in this connection referred to exhibit U-13, a document produced by the Sabha to show the profitability ration and argued that that document would itself indicate that there was decline in profit from 1965 to 1968. Exhibit U-13 is a statement of the gross profits for the years from 1965 to 1968 of these units from the point of view of the total sales, of total capital and of total net worth. In Ahmedabad Mill Owners' Association, etc. v. The textile Labour Association ((1966) 1 SCR 382 at p. 426 : AIR 1966 SC 497 : (1966) 1 LLJ 1.), the Court observed :

> "We do not think in considering the financial position of the appellants in the context of the dispute before us, it would be appropriate to rely unduly on the profitability ratio which has been adopted by the said Bulletin. Indeed, in appreciating the effect of the several statements produced before the Industries Court by the parties in the present proceedings, it would be relevant to remember that some of these single-purpose statements are likely to create confusion and should not ordinarily be regarded as decisive. As Paton has observed : 'Different groups for whom financial statements are prepared are interested in varying degree in particular types of information; and so, it has been held in some quarters that no one from of statement will satisfactorily serve all these purposes, that separate single-purpose statements should be prepared for each need or that statements usually prepared for general distribution should expended so as to include all the detail desired' (Accountant's Handbook Edited by Paton, p. 13). Paton cites the comment of Wilcox against these single-purpose statements. Said Wilcox : 'The danger in undertaking to furnish single-purpose financial statements lies in increasing confusion and misunderstanding, and in the possible misuse of such statement purpose'. Paton has then referred to certain methods for determining the financial position of a

> commercial and industrial concern. In this connection, he refers to the proprietary ratio rate of earnings on total capital employed, rate of dividends on common stockholders equity and others. Our purpose in referring to these comments made by Paton is to emphasise the fact that industrial adjudication cannot lean too heavily on such single-purpose statements or adopt or adopt any one of the tests evolved from such statements, whilst it is attempting the task of deciding the financial capacity of the employer in the context of the wage problem. While we must no doubt examine the position in detail, ultimately we must base our decision on a broad view emerges from a consideration of all the relevant factors".

16. We think that the Industrial Court has carefully examined the financial position of the employer-units as also the position of the industry and its future prospects. The Court was fully of the nature of the demand and the and the extent of the burden which the employer units will have to bear. A broad and overall view of the financial position of the employer units was taken into account by the Court and it has tried to reconcile the natural and just claims of the employer for the higher rate of dearness allowance with the capacity of the employer to pay it and in that process it has made allowance for the legitimate desire of the employer to make reasonable profits. What is really material is assessing the financial capacity of the employer-units in this context is the extent of gross profits made by them (see Unicham Laboratories Ltd. v. Their Workmen) (C.A. Nos. 1091-93 of 1971, decd. on Feb. 24, 1971 : (1972) 3 SCC 552.). On the basis of Exhibit U-9 which is an analysis of the balance-sheets and the profit and loss accounts of the 28 units, the Court found that the 28 mills have been making good profits and that, on an average, the profit would work work out at 40 and odd per cent. of the capital. There was some decline in the profits made during the years 1966, 1967 and 1968 but the Court found that the industry was rallying round in 1970.

17. Mr. Desai contended that the Industrial Court did not appreciate the impact on the industry of the enhancement of excise duty upon the manufacture of silk products. Counsel contended that there has been considerable increase in excise duty on all varieties of silk and that has affected the consumption of manufactured silk products. No evidence has been adduced to show what exactly has been the effect on the industry of the enhancement of the excise duty. Although the Managers of two units were examined as witnesses Nos. 2 and 3 in March and April, 1971, they did not indicate any evidence as regards the adverse effect of the sale of silk products on account of the imposition of enhanced excise duty during the financial year 1970. We do not think that without further evidence as regards the effect of the enhancement of the excise duty, it is possible to draw an inference that the sale of the products has been adversely affected. Quite apart from this, we do not understand how when the economic incidence of the excise duty has been passed on the consumer, the employer-units have to bear any additional burden on account of the levy.

18. Counsel next contended that the Industrial Court was not justified in relying upon Exhibit U-8 for coming to the conclusion that 99 per cent. of neutralization on account of rise in cost of living should be granted to the employees on the basis of the percentage of neutralization of other industries in the region. Counsel said that granting 99 per cent. neutralization has not been countenanced by this Court, that the basis of fixation of dearness allowance is industry-cum-region and that the Industrial Court went wrong in taking into account the percentage of neutralization of other industries in the region for fixing the extent of neutralization on account of the rise in the cost of living to the employees in question here and relied on the decisions of this Court in Bengal Chemicals and Pharmaceuticals Works Ltd. v. Its Workmen ((1969) 2 SCR 113 : AIR 1969 SC 360 : (1969) 1 LLJ 751.). In that case, Vaidialingam, J., speaking for the Court, laid down among the others things, the following propositions : (1) Full neutralization is not normally given, except to

lowest class of employees, (2) the purpose of dearness allowance being to neutralize a portion of the increase in the cost of living, it should ordinarily be on a sliding scale and provide for an increase in the rise in cost of living and decrease on a fall in the cost of living, (3) the basis of fixation of wages and dearness allowance is industry-cum-region.

19. We do not think that the Industrial Court went wrong in relying upon Exhibit U-8, or, in granting 99 per cent. neutralization on account of the steep rise in the cost of living. Exhibit U-8, it may be recalled, is a comparative table showing the minimum basic wages and dearness allowance paid in other industries in the region like engineering, pharmaceuticals, etc. The Court relied upon it only to show the trend in the region. The Court also relied on the report of the Norms Committee which stated that the trend for the last decade in the industrial adjudication as well as in settlements and awards, was to allow 100 per cent. of neutralization in the case of lowest-paid employees. The Court was of the view that if 80 per cent. of the neutralization could be allowed in the industry under the statements arrived at in 1957, there was no reason why 100 per cent. neutralization should not be granted in view of the steep rise in the cost of living from 1957, to the lowest paid employees. We cannot agree with the contention of the appellant that the Industrial Court went wrong relying in Exhibit U-8 or the report of the Norms Committee to find out the trend in the region as to the extent of neutralization to be allowed to the employees concerned. The question of the extent of neutralization to the workmen in the units does not depend solely upon the fact whether the neutralization to that extent has been allowed to the employees in comparable concerns in the same industry in the same region. Much distinction cannot be made in this respect among the lowest paid employees in the region merely because some of them are employed in other industries. In other words, for finding the trend or the norm in the region as regards the extent of neutralization for the lowest paid employees, the Industrial Court cannot be said to have gone wrong in relying upon either the Norms Committee Report or on Exhibit U-8.

20. Counsel for the appellant submitted that the Industrial Court did not make any attempt to fix the dearness allowance on the basis of the industry-cum-region formula, and that was the fatal blemish in the award. In French Motor Car Co. Limited v. Workmen (1962 Supp 21 SCR 16 at pp. 20-21 : AIR 1963 Sc 1327 : (1962) 2 Lab LJ 744.) this Court observed that the principle of the industry-cum-region has to be applied by the industrial court, when it proceeds to consider questions like wage structure, dearness allowance and similar conditions of service and applying that the principal industrial courts have to compare the wages scale or the dearness allowance prevailing in similar concerns in the region with which it is dealing, and generally speaking similar concerns would be those in the same line of business as the concern with respect to which the dispute is under consideration and further, even in the same line of business, it would not be proper to compare a small struggling concern with a large flourishing concern. In Williamsons (India) Private Ltd. v. The Workmen ((1962) 1 LLJ 302.) the Court observed that the extent of business carried on by the concerns, the capital invested by them, the profits made by them, the nature of business carried out by them, their standing, the strength of their labour force, the presence or absence and the extent of reserves, the dividends declared by them and the prospects about the future of their business and other relevant factors have to be borne in mind for the purpose of comparison. These observations were made to show how comparison should be made, even in the same line of business and were intended to lay down that a small concern cannot be compared even in the same line of business with a large concern. In Greaves Cotton & Co. and Others v. Their Workmen ((1964) 5 SCR 362 at pp. 367-369 : AIR 1964 SC 689 : (1964) 1 Lab LJ 342.) the main argument was that the Tribunal went wrong in relying more on the region aspects of the industry-cum-region formula and not on the industry aspects when dealing with clerical and subordinate staff. The Court said that it was ordinarily desirable to have as much uniformity as possible in the wage-scale of different concerns

of the same industry working in the same region, as this puts similar industries more or less on an equal footing in their production struggle. The Court then referred to The French Motor Co.'s case (supra) and observed that in that case this court held so far as clerical and subordinate staff are concerned that it may be possible to take into account even those concerns which are engaged in different lines of business for the work of clerical and subordinate staff is more or less the same in all kinds of concerns The Court observed that where there a large number of industrial concerns of the same kind in the same region it would be proper to put greater emphasis on the industry part of the industry-cum-region principle as that would put all concerns on a more or less equal footing in the matter of production cost and therefore in the matter of competition in the market and this will equally apply to clerical and subordinate staff whose wages and dearness allowance also go into calculating production costs, but where the number of comparable concerns is small in a particular region and therefore the competition aspects is not of the same importance, the region part of the industry-cum-region formula assumes greater importance particularly with reference to clerical and subordinate staff and this was what was emphasised in the French Motor Car Co.'s case (supra), where the company was already paying the highest wages in the particular line of business and therefore comparison had to be made with similar concerns as possible in different line of business for the purpose of fixing wage-scales and dearness allowances. According to the Court, the principle, therefore, which emerges from these two decisions is that in applying the industry-cum-region formula for fixing wage-scales the Tribunal should lay stress on the industry part of the formula if there are a number of concerns in the same region carrying on the same industry; in such a case in order that production cost may not be unequal and there may be equal competition, wages should be generally be fixed on the basis of comparable industries, namely, industries of the same kind. But where the number of industries of the same kind in a particular region is small it is the region part of the industry-cum-region formula which assumes importance particularly in the case of clerical and subordinate staff, for as pointed out in the French Motor Car Co. (supra), case there is not much difference in the work of this class of the employees in different industries.

21. If the employer has the financial capacity, would it be just to reject the claims of the lowest paid workmen for an enhancement in the dearness allowance to neutralize the rise in the cost of living and thus to maintain their subsistence wage at its real level in terms of the purchasing capacity, merely because there is a comparable concern in the industry in the region in which workmen are paid dearness allowances at a low rate ? We do not think it necessary to answer the question for the purpose of deciding this case.

22. The Association never wanted the Court to make any comparison with any other units in the same industry in the region. In the written statement of the Association there was no averment that there were other comparable units in the same industry in that region. Nor did the Association, at that time of argument before the Industrial Court, put forward the contention that there were comparable concerns in the same industry in the region and that the Court would make a comparison of the employer units in question with those concerns to find out the extent of neutralization which could be granted. The Association had a membership of 325 units in Greater Bombay on February 6, 1970, when a Miscellaneous Application (IC) No. 1 was filed. It was certainly in a position to tell the Court whether there were any other comparable units in the same industry in the region and the only inference from its conduct is that there were no comparable units in the same industry in the region.

23. We do not think that the award suffers from any infirmity. At the time of the admission of the Special Leave Petition the Court has ordered that the appellant should pay the cost of the respondent irrespective of the result of the appeal. We dismiss the appeal and direct the direct appellant to pay

the cost of the respondent.

24. In the Civil Appeal No. 277 (NL) of 1972, the contentions raised on the behalf of the appellant are much the same as those raised in Civil Appeal No. 276 (NL) of 1972 and for the reasons given in the above judgment, we dismiss that appeal also and direct the appellant to pay the cost of the respondent.

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