P. Virudhachalam and Others

Vs

Management of Lotus Mills and Another

Civil Appeal No. 4852 of 1989

(S. B. Majmudar, M. Jagannadha Rao JJ)

09.12.1997

JUDGMENT

S. B. MAJMUDAR, J. –

1. A short but an interesting question arises for consideration in this appeal by certificate granted by the High Court of Judicature at Madras under Article 133(1) of the Constitution of India. It reads as under :

> "Whether an individual workman governed by the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act') can claim lay-off compensation under Section 25-C of the Act despite a settlement arrived at during conciliation proceedings under Section 12(3) of the Act by a union of which he is not a member and when such settlement seeks to restrict the right of lay-off compensation payable to such workman as per the first proviso to Section 25-C of the Act."

2. A few relevant facts leading to these proceedings require to be stated at the outset :

Background facts

3. The five appellants before us were employed at the relevant time under Respondent 1 in various departments. Respondent 1 was running a textile mill wherein the appellants were employed. The said textile mill remained closed due to financial crisis from 8-8-1976 to 31-1-1978. The workmen of the mill raised a dispute pertaining to lay-off during the aforesaid period and claimed appropriate wages for the said period. In the conciliation proceedings a settlement was arrived at between the parties on 28-12-1977. Five unions representing all the workmen took part in the conciliation proceedings. A settlement was arrived at in these proceedings between the management on the one hand and the unions on the other. In clause 6 of the settlement, it was provided that lay-off compensation would be paid for the days during which the mill did not function and marked as "no work". It was also agreed that the compensation would be paid after January 1981 in instalments and the question as to the number of instalments would be decided by both parties on mutual discussion in January 1980. Though it was agreed under that settlement in January 1980, the workers insisted upon immediate payment of compensation and raised another dispute. Consequently, the earlier settlement lost its efficacy. Again the matter was referred to the conciliation officer who held negotiations. Different unions representing various categories of workmen took part in the negotiations. The union representing the present appellants also took part in the said negotiations. Ultimately a fresh settlement was arrived at during conciliation proceedings as per Section 12(3) of the Act on 5-5-1980. Out of five unions representing the workmen of

Respondent 1-textile mill, four unions signed the said settlement but the union representing the appellants did not think it fit to sign the same. The relevant terms of the aforesaid settlement under Section 12(3) of the Act in connection with the payment of lay-off compensation read as under :

> "Terms of Settlement :
>
> 1. It is agreed that this settlement shall be applicable to all permanent employees of the Mill except
>
> (a) Watchmen
>
> (b) Electrical Department workers
>
> (c) Staff
>
> in respect of whom a separate settlement has been signed.
>
> 2. It is agreed that in respect of the period 8-8-1976 to 7-8-1977, all workers who were laid off during that period shall be paid lay-off compensation for the first forty-five days of lay-off and that no compensation shall be payable in respect of the days of lay-off after the expiry of the first forty-five days.
>
> 3. It is further agreed that in respect of the period 9-8-1977 to 31-1-1978, all workmen who were laid off during that period shall be paid lay-off compensation for the first forty-five days of lay-off and that no compensation shall be payable in respect of the days of lay-off after the expiry of the first forty five days.
>
> 4. In addition to the lay-off compensation payable under clauses (2) and (3) above each permanent workman shall be paid an ex gratia sum which shall be calculated as follows :
>
> The total of the compensation amount payable to each permanent worker under clauses (2) and (3) above and the ex gratia amount shall be equal to 67% of the total lay-off compensation payable for him in respect of all the days of lay-off during the period 8-8-1976 to 31-1-1978."

4. It is not in dispute that the present appellants were permanent employees of the mill and did not belong to any of the excluded categories mentioned in paragraph 1 of the settlement, meaning thereby they were covered by the said settlement. The question is as to whether they would be bound by the settlement and the terms regarding the payment of retrenched lay-off compensation, when their union did not sign the said settlement. The appellants on the ground that their union had not signed the settlement, filed application under Section 33-C(2) of the Act for computing the appropriate lay-off compensation payable to them as per Section 25-C of the Act. The Labour Court after hearing the parties allowed the said application on the ground that the appellants individually had not entered into any agreement with the management and consequently the proviso to Section 25-C of the Act would not come in their way and, therefore, they were entitled to be paid 50% lay-off compensation for the entire period during which they were laid off i.e. from 8-8-1976 to 31-1-1978 and the term of the settlement under Section 12(3) arrived at during conciliation proceedings restricting the payment of compensation to 67% of the permissible statutory lay-off compensation would not be binding on the appellants. Accordingly, the amounts payable to the appellants were

computed by the Labour Court and were directed to be paid by Respondent 1 by its order dated 30-1-1982. Respondent 1 carried the matter in writ petition being WP No. 2962 of 1982 in the Madras High Court. The High Court by its impugned judgment dated 11-8-1989 held that the settlement arrived at during conciliation proceedings under Section 12(3) was binding on all the workmen being parties to industrial dispute as per Section 18(3) of the Act and consequently the said settlement could be treated as an agreement arrived at between all the workmen as per the first proviso to Section 25-C and, therefore, the appellants could not claim anything more than what was permissible and payable to them as per the binding terms of the settlement dated 5-5-1980. The writ petition of Respondent 1 was, therefore, allowed and the claim petition under Section 33-C(2) as moved by the appellants was dismissed. However, while dismissing the same, the High Court granted a certificate under Article 133(1) of the Constitution for leave to appeal to this Court and that is how this appeal was filed in this Court and has reached the final hearing before us.

Contentions on behalf of the appellants

5. Learned counsel for the appellants vehemently contended that Section 25-C is in Chapter V-A of the Act and it represents a complete code in itself. That the statutory right given to the workmen under Section 25-C of Chapter V-A cannot be whittled down, save and except by an agreement entered into between the workmen concerned and the employer as provided by the first proviso to Section 25-C of the Act. But before the provisions of the said proviso are attracted, it should be shown that the workman who has a statutory right under Section 25-C has willingly agreed to give up his right by entering into such an agreement with the employer. That such an agreement was independent of any settlement contemplated under Section 12(3) of the Act which could have any binding effect under Section 18(3) of the Act. It was submitted that on a conjoint reading of Sections 25-C and 25-J, it has to be held that any inconsistent provision found in any other law including in any other part of the Act itself would not whittle down the right to receive lay-off compensation as guaranteed to the workman under Section 25-C of the Act and consequently the settlement arrived at under Section 12(3) of the Act would not have any adverse effect on the right of the appellants who admittedly had not entered into any independent agreement with the management curtailing their right under Section 25-C of the Act to receive 50% statutory compensation during the entire lay-off period. The contesting Respondent 1 being served has not thought it fit to appear in these proceedings.

Statutory scheme

6. In order to appreciate the aforesaid contentions canvassed by counsel for the appellants, it will be necessary to have a look at the statutory scheme of the Act. The Act is enacted for resolving industrial disputes between workmen and employer which would have pernicious effect on industrial peace and industrial production and which would in their turn adversely affect the economy of the nation as a whole. The Act is enacted to make provisions for the investigation and settlement of industrial disputes and for certain other purposes mentioned in the Act. Under the Act, the principal techniques of settlement of disputes are - (1) Collective Bargaining, (2) Mediation and Conciliation, (3) Investigation, (4) Arbitration, and (5) Adjudication. The scheme of the Act shows that adjudication is to be resorted to as the last alternative. Before any matter is referred for adjudication under Section 10 of the Act, there should be an attempt for conciliation. As laid down by this Court in Herbertsons Ltd. v. Workmen ((1976) 4 SCC 736 : 1977 SCC (L&S) 48 : AIR 1977 SC 322) any settlement between the employer and the employees is placed on a higher pedestal than an award passed after adjudication. It is easy to visualise that individual workmen have by themselves scant bargaining power. Therefore, their disputes have to be highlighted by their

bargaining agents, namely, their unions representing the body of workmen so that the bargaining power of individual workmen can get strengthened. As per Section 36 of the Act, a workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by any member of the executive or other office-bearer of a registered trade union of which he is a member. The machinery of the Act envisages resolution of industrial disputes and conflicts at the grassroot level by conciliation by which settlement can be arrived at between the employer and the workmen and industrial peace can be achieved and industrial strife can be put to an end. The Act envisages two types of settlements between the warring groups of employer and employees. As defined by Section 2(p) of the Act, "settlement" means a settlement arrived at in the course of conciliation proceedings and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceedings where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer. Thus, a settlement which is based on a written agreement between the parties can be arrived at either in conciliation proceedings or even outside conciliation proceedings between the representatives of the workmen on the one hand and the management on the other. But even if such written agreement signed by the parties is arrived at outside conciliation proceedings, it would become a settlement, once the prescribed procedure as envisaged by Section 2(p) is followed. So far as settlements arrived at in the course of conciliation proceedings are concerned, Section 12 of the Act deals with such settlements. As laid down by Section 12(1) where any industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under Section 22 has been given shall, hold conciliation proceedings in the prescribed manner. Sub-section (2) of Section 12 enjoins upon him for the purpose of bringing about a settlement of the dispute, without delay to investigate the dispute and all matters affecting the merits and the right settlement thereof and to make all efforts as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute. Then follows sub-section (3) of Section 12 under which settlement in the present case saw the light of day. It reads as under :

> "12. (3) If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the conciliation officer shall send a report thereof to the appropriate government or an officer authorised in this behalf by the appropriate government together with a memorandum of the settlement signed by the parties to the dispute."

7. Sub-sections (4) and (5) of Section 12 lay down that if no settlement is arrived at, the conciliation officer shall submit a full report to the appropriate Government which if satisfied that there is a case for reference of the dispute to a Board, Labour Court, Tribunal or National Tribunal, as the case may be, may make such a reference and shall record and communicate to the parties concerned its reasons therefor. So far as the settlement arrived at outside the conciliation proceedings is concerned, Section 18(1) deals with such settlement and lays down that a settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceedings shall be binding on the parties to the agreement. Sub-section (3) of Section 18, however, deals with settlement arrived at during conciliation proceedings and lays down that :

> 18. (3) A settlement arrived at in the course of conciliation proceedings under this Act, or an arbitration award in a case where a notification has been issued under sub-section (3-A) of Section 10-A or an award of a Labour Court, Tribunal or National Tribunal which has become enforceable shall be binding on -

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, Arbitrator, Labour Court, Tribunal or National Tribunal, as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

Discussion on the point for consideration

8. The aforesaid relevant provisions of the Act, therefore, leave no room for doubt that once a written settlement is arrived at during the conciliation proceedings such settlement under Section 12(3) has a binding effect not only on the signatories to the settlement but also on all parties to the industrial dispute which would cover the entire body of workmen, not only existing workmen but also future workmen. Such a settlement during conciliation proceedings has the same legal effect as an award of Labour Court, or Tribunal or National Tribunal or an arbitration award. They all stand on a par. It is easy to visualise that settlement contemplated by Section 12(3) necessarily means a written settlement which would be based on a written agreement where signatories to such settlement sign the agreement. Therefore, settlement under Section 12(3) during conciliation proceedings and all other settlements contemplated by Section 2(p) outside conciliation proceedings must be based on written agreements. Written agreements would become settlements contemplated by Section 2(p) read with Section 12(3) of the Act when arrived at during conciliation proceedings or even outside conciliation proceedings. Thus, written agreements would become settlements after relevant procedural provisions for arriving at such settlements are followed. Thus, all settlements necessarily are based on written agreements between the parties. It is impossible to accept the submission of learned counsel for the appellants that settlements between the parties are different from agreements between the parties. It is trite to observe that all settlements must be based on written agreements and such written agreements get embedded in settlements. But all agreements may not necessarily be settlements till the aforesaid procedure giving them status of such settlements gets followed. In other words, under the scheme of the Act, all settlements are necessarily to be treated as binding agreements between the parties but all agreements may not be settlements so as to have binding effect as provided under Section 18(1) or (3) if the necessary procedure for giving them such status is not followed in given cases. On the aforesaid scheme of the Act, therefore, it must be held that the settlement arrived at during conciliation proceedings on 5-5-1980 between Respondent 1-management on the one hand and the four out of five unions of workmen on the other, had a binding effect under Section 18(3) of the Act not only on the members of the signatory unions but also on the remaining workmen who were represented by the fifth union which, though having taken part in conciliation proceedings, refused to sign the settlement. It is axiomatic that if such settlement arrived at during the conciliation proceedings is binding on even future workmen as laid down by Section 18(3)(d), it would ipso facto bind all the existing workmen who are all parties to the industrial dispute and who may not be members of unions that are signatories to such settlement under Section 12(3) of the Act.

9. It has to be kept in view that the Act is based on the principle of collective bargaining for resolving industrial disputes and for maintaining industrial peace. Thus principle of industrial democracy is the bedrock of the Act. The employer or a class of employers on the one hand and the accredited representatives of the workmen on the other are expected to resolve the industrial dispute amicably as far as possible by entering into the settlement outside the conciliation proceedings or if no settlement is reached and the dispute reaches the conciliator even during conciliation proceedings. In all these negotiations based on collective bargaining the individual workman necessarily recedes to the background. The reins of bargaining on his behalf are handed over to the union representing such workman. The unions espouse the common cause on behalf of all their members. Consequently, settlement arrived at by them with management would bind at least their members and if such settlement is arrived at during conciliation proceedings, it would bind even non-members. Thus, settlements are the live wires under the Act for ensuring industrial peace and prosperity. Section 10(2) of the Act highlights this position by providing that where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court, Labour Court, Tribunal or National Tribunal, the appropriate Government, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly. Individual workman comes into the picture only in connection with a limited class of industrial disputes as indicated by Section 2-A of the Act dealing with discharges, dismissals, retrenchments or otherwise termination of services of an individual workman. Save and except the aforesaid class of disputes, which an individual workman can raise, rest of the industrial disputes including disputes pertaining to illegal lock-out, lay-off and lay-off compensation have to be filtered through the process of collective bargaining and they are disputes of general nature or class disputes wherein individual workman by himself has no say. In this connection, it is profitable to keep in view a decision of a three-member Bench of this Court in the case of Ram Prasad Vishwakarma v. Chairman, Industrial Tribunal, Patna (AIR 1961 SC 857 : (1961) LLJ 504) wherein Das Gupta, J., speaking for this Court made the following pertinent observations on the scheme of the Act, at the time when Section 2-A was not on the statute-book :

> "It is now well settled that a dispute between an individual workman and an employer cannot be an industrial dispute as defined in Section 2(k) of the Industrial Disputes Act unless it is taken up by a Union of the workmen or by a considerable number of workmen. In Central Provinces Transport Service Ltd. v. Raghunath Gopal Patwardhan (AIR 1957 SC 104 : 1956 SCR 956 : (1957) 1 LLJ 27) Mr. Justice Venkatarama Ayyar speaking for the Court pointed out after considering numerous decisions in this matter that the preponderance of judicial opinion was clearly in favour of the view that a dispute between an employer and a single employee cannot per se be an industrial dispute but it may become one if it is taken up by a Union or a number of workmen.
>
> "Notwithstanding that the language of Section 2(k) is wide enough to cover disputes between an employer and a single employee,' observed the learned Judge, 'the scheme of the Industrial Disputes Act does appear to contemplate that the machinery provided therein should be set in motion to settle only disputes which involve the rights of workmen as a class and that a dispute touching the individual rights of a workman was not intended to be the subject of adjudication under the Act, when the same had not been taken up by the Union or a number of workmen'.
>
> This view which has been reaffirmed by the Court in several later decisions recognises the great importance in modern industrial life of collective bargaining

> between the workmen and the employers. It is well known how before the days of collective bargaining labour was at a great disadvantage in obtaining reasonable terms for contracts of service from his employer. As trade unions developed in the country and collective bargaining became the rule the employers found it necessary and convenient to deal with the representatives of workmen, instead of individual workmen, not only for the making or modification of contracts but in the matter of taking disciplinary action against one or more workmen and as regards all other disputes.
>
> The necessary corollary to this is that the individual workman is at no stage a party to the industrial dispute independently of the Union. The Union or those workmen who have by their sponsoring turned the individual dispute into an industrial dispute, can therefore claim to have a say in the conduct of the proceedings before the Tribunal.
>
> It is not unreasonable to think that Section 36 of the Industrial Disputes Act recognises this position, by providing that the workman who is a party to a dispute shall be entitled to be represented by an officer of a registered trade union of which he is a member."

10. Consequently, the provisions contained in the first proviso to Section 25-C of the Act would also necessarily require an agreement to be entered into on behalf of the affected class of workmen by their accredited representatives being office-bearers of their union. It is easy to visualise that when lay-off has been imposed by the management in an establishment or in any department thereof, the entire body of workmen working therein would be affected by lay-off. Therefore, their grievance in connection with lay-off compensation pertaining to the period of lay-off would not be necessarily an individual grievance but would be grievance of the class of workmen as a whole affected by such lay-off. If there is a binding settlement embodying an agreement on behalf of a class of workmen through their union in connection with lay-off compensation it would obviously be binding on all the members of the union and if such settlement based on agreement is arrived at during conciliation proceedings it would be binding on the entire class of workmen covered by the industrial dispute regarding lay-off compensation. The individual workman can raise his grievance under Section 25-C only if his statutory right of lay-off under Section 25-C is not hedged in by any binding effect of an agreement entered into by its own union with the management, whether in or outside conciliation proceedings or even by other unions that may arrive at such settlement during the course of conciliation proceedings. Then only individual workman can have full play under Section 25-C for vindicating his right of lay-off compensation.

11. In Barauni Refinery Pragatisheel Shramik Parishad v. Indian Oil Corpn. Ltd. ((1991) 1 SCC 4 : 1991 SCC (L&S) 1 : AIR 1990 SC 1801) Ahmadi, J., as he then was, speaking for a Bench of two learned Judges of this Court had an occasion to consider the binding effect of such a settlement arrived at during conciliation proceedings in the light of Section 18 of the Act. The following pertinent observations, in this connection, were made : (SCC p. 12, para 8)

> "A settlement arrived at in the course of conciliation proceedings with a recognised majority union will be binding on all workmen of the establishment, even those who belong to the minority union which had objected to the same. To that extent it departs from the ordinary law of contract. The object obviously is to uphold the sanctity of settlements reached with the active assistance of the Conciliation Officer and to discourage an individual employee or a minority union from scuttling the settlement.

> There is an underlying assumption that a settlement reached with the help of the Conciliation Officer must be fair and reasonable and can, therefore, safely be made binding not only on the workmen belonging to the union signing the settlement but also on others. That is why a settlement arrived at in the course of conciliation proceedings is put on a par with an award made by an adjudicator authority."

12. In this light we have now to examine the relevant provisions of the Act dealing with lay-off and compensation to be paid to workmen for layoff. Section 25-C is found in Chapter V-A of the Act which deals with layoff and retrenchment. We are concerned with lay-off in the present case. Section 25-C deals with statutory right of the workmen laid off for compensation. Sub-section (1) of Section 25-C with the first proviso reads as under :

> "25-C. Right of workmen laid off for compensation. - (1) Whenever a workman (other than a badli workman or a casual workman) whose name is home on the muster-rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent of the total of the basic wages and dearness allowance that would have been payable to him had he not been so laid off :
>
> Provided that if during any period of twelve months, a workman is so laid off for more than forty-five days, no such compensation shall be payable in respect of any period of the lay-off after the expiry of the first forty-five days, if there is an agreement to that effect between the workman and the employer."

13. It is of course true that sub-section (1) of Section 25-C lays down that if there is a legal lay-off imposed by the employer, the permanent workman covered by sweep of sub-section (1) of Section 25-C would be entitled to be paid by way of lay-off compensation 50% of the total wages and dearness allowance during the relevant period of lay-off. However, because of the first proviso to the said section, the right of the workman to be paid 50% lay-off compensation during the relevant period of lay-off would be curtailed and restricted to 45 days only if there is an agreement to that effect between the workman and the employer. The question is whether there was such an agreement between the appellants and the employer. Learned counsel for the appellants submitted that for attracting the first proviso to Section 25-C(1), there should be independent agreement between the workman and the employer to that effect agreeing not to demand lay-off compensation beyond 45 days of the starting of the lay-off period. It is difficult to appreciate this contention. An agreement restricting the claim of lay-off compensation beyond the available period of 45 days can be said to be arrived at between the workman on the one hand and the employer on the other as there is such an agreement embedded in a binding settlement which has a legal effect of binding all the workmen in the institution as per Section 18(3) of the Act. Such binding effect of the embedded agreement in the written settlement arrived at during the conciliation proceedings would get telescoped into the first proviso to Section 25-C(1) and bind all workman even though individually they might not have signed the agreement with the management or their union might not have signed such agreement with the management on behalf of its member-workmen. The First proviso to Section 25-C(1) clearly lays down that if there is an agreement for not paying any more lay-off compensation beyond 45 days between the workman and the employer, such an agreement has binding effect both on the employer and the workman concerned. Such binding force gets clearly attracted in the case of the appellants by virtue of operation of Section 12(3) read with Section 18 of

the Act emanating from the settlement arrived at during the conciliation proceedings as aforesaid. Learned counsel, however, strongly relied upon Section 25-J of the Act for isolating the effect of Section 18(3) in the present case. Section 25-5 reads as under :

> "25-J. Effect of laws inconsistent with this Chapter. - (1) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946) :
>
> Provided that where under the provisions of any other Act or rules, orders or notifications issued thereunder or under any standing orders or under any award, contract of service or otherwise, a workman is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the workman shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.
>
> (2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State insofar as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workmen insofar as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter.

14. It is difficult to appreciate how the said proviso can be of any assistance to the appellants. All that is stated is that anything inconsistent with the provisions of Chapter V-A found to have been laid down by any other law including standing orders etc. will have no effect. Even subsection (2) of Section 25-J is to the same effect. Therefore, Section 25-J overrides any inconsistent provision of any other law or otherwise binding rule of conduct and makes the provisions of Chapter V-A operative of their own. The submission of learned counsel for the appellants in this connection was to the effect that "any other law" as provided in Section 25-J(1) would include even the Industrial Disputes Act, specially the provisions contained in Section 18 thereof. It is difficult to agree. The section nowhere provides that the provisions of Chapter V-A shall have effect notwithstanding anything inconsistent contained in any other chapter of the Industrial Disputes Act as well as in any other law. Such a provision is conspicuously absent in Section 25-5(1). If submission of learned counsel for the appellants is accepted, Section 25-J(1) will have to be rewritten by introducing the additional words therein "in any other part of this Act or" before that words "any other law" as mentioned therein. On the express language of the said provision, therefore, such an exercise is contra-indicated and is totally impermissible.

15. In fact, this Court in Krishna Distt. Coop. Marketing Society Ltd. v. N. V. Purnachandra Rao ((1987) 4 SCC 99 : 1987 SCC (L&S) 366) at p. 111 pointed out that the purpose of Section 25-J(2) in Chapter V of the Industrial Disputes Act, 1947 was to give overriding effect to the provisions of retrenchment and lay-off in Chapter V-A over cognate provisions of State laws dealing with retrenchment and lay-off. In the above case Venkataramiah, J., (as he then was) observed : (SCC p. 111, para 9)

> "By enacting Section 25-J(2), Parliament, perhaps intended that the rights and liabilities arising out of lay-off and retrenchment should be uniform throughout India

> where the Central Act was in force and did not wish that the States should have their own laws inconsistent with the Central law."

The above passage also shows that Chapter V was not intended to override any provisions of the Industrial Disputes Act, 1947 itself.

16. Once Section 25-J(1) is out of the picture. Section 25-C(1) will have to be read with the proviso and once a settlement is arrived at between the parties during conciliation proceedings as laid down by Section 18(3) the binding effect of such settlement gets visited on all the workmen, as seen earlier. Consequently the appellants would remain bound by the settlement which would be treated as an agreement binding on them as contemplated by the said proviso. Once that conclusion is reached no fault can be found with the High Court taking the view on the scheme of the Act that additional benefits which the appellants claimed under the settlement arrived at under Section 12(3) read with Section 18 of the Act could not be computed under Section 33-C(2) of the Act and such application was, therefore, rightly held incompetent.

17. It is now time for us to refer to some decision of this Court to which our attention was invited.

18. This Court speaking through Untwalia, J. held in Workmen v. Fireston Tyre and Rubber Co. of Indian (P) Ltd. ((1976) 3 SCC 819 : 1976 SCC (L&S) 504 : (1976) 1 LLJ 493) that Chapter V-A of the Act was a complete code and if the workmen are found to have been laid off, the benefit of the said provision can be attracted. It is difficult to appreciate how this decision can be of any assistance to the counsel for the appellants as in the aforesaid case there was no question of any binding settlement between the parties which had tried to whittle down the statutory right of lay-off compensation as per the first proviso to Section 25-C of the Act.

19. In R. B. Bansilal Abirchand Mills Co. Ltd. v. Labour Court, Nagpur ((1972) 1 SCC 154) this Court was concerned with a question whether application under Section 33-C(2) could be filed by co-employees who claimed benefit under Section 25-C of the Act for lay-off compensation even though those workmen had not filed such application earlier. Even in that case there was no question of any binding effect of any settlement under Section 12(3) read with Section 18(3) of the Act.

20. In Workmen v. Dewan Tea Estate (AIR 1964 SC 1458 : (1964) 5 SCR 548 : (1964) 1 LLJ 358) this Court was concerned with the question whether lay-off compensation could be claimed by the workmen under Section 25-C even though such claim was not covered by the standing orders. It was held that the lay-off, compensation would be permissible only where one or the other of the factors mentioned by Section 2(kkk) is present, and for such a lay-off, compensation could be awarded under Section 25-C, Even in this case the question of binding effect of a settlement arrived at during conciliation proceedings and curtailment of right of workmen laid off for compensation under Section 25-C of the Act was not on the anvil of scrutiny.

21. In Cachar Chah Sramik Union v. Tea Estate of Cachar (AIR 1966 SC 987 : (1966) 2 SCR 344 : (1966) 1 LLJ 420) it was held that even though the management might have given ex gratia compensation to the workmen laid off they were entitled to claim lay-off compensation as per the Act and as per the relevant standing orders. The aforesaid decision cannot advance the case of the appellants as there was no question of any binding effect of any settlement arrived at between the parties which would govern the claim of all the workmen even though their union might not have been signatory to such settlement during conciliation proceedings.

22. In the result this appeal fails and is dismissed. In the facts and circumstances of the case, there will be no order as to costs.