SUPREME COURT OF INDIA

Uttaranchal Forest Development Corpn.

Vs.

Jabar Singh

C.A.No.5728-5729 of 2006

(Dr. A.R.Lakshmanan and Tarun Chatterjee JJ.)

12.12.2006

JUDGMENT

DR. AR. LAKSHMANAN, J.

Leave granted.

A bunch of 38 appeals were filed by the State of Uttaranchal Forest Development Corporation against the judgment and order dated 21.08.2003 by the High Court of Uttaranchal in Writ Petition No. 1376 of 2001. The said writ petition was filed by the respondent-workmen against the award dated 24.12.1997 of the Labour Court, Dehradun in litigation case No. 117 of 2006 (with 29 other cases).

DATES AND EVENTS:

The U.P. Forest Corporation had engaged daily wages workers for the purpose of measurement of wood, protection of timber at the logging site and depots of the Corporation. The said engagement of workers was as per requirement. The U.P. Forest Corporation was the predecessor of the appellant Corporation.

12.07.1994 A writ petition No. 21 of 1993 (Van Nigam Karmachari Kalyan Sangh vs. State of U.P and others) was decided by the High Court of judicature at Allahabad vide judgment and order dated 12th July, 1994 wherein the High Court, inter alia, held as under:-

"... (iii) In case of reduction of work or short fall in the work the Authorities of the Forest Corporation would make an endeavour to adjust them in alternative work available in the particular region in which they are working or in any other region where work is available before giving them seasonal leave terminating their services.

(iv) If that particular region or any other region such alternative work is not available on account of reduction in work or shortfall in work, the authorities of the Corporation may retrench the services of field staff but only in accordance with the provisions of Sec. 6-N of the U.P. Industrial Disputes Act."

The predecessor Corporation of the appellant made its best endeavor to accommodate the surplus daily rate workers but the alternative work was not available since the work of the Corporation had tapered down as felling of the trees had been banned in the Forest under the Policy of the Govt. and in these circumstances the predecessor of appellant was compelled to reduce the work force of daily wage workers. As there was no work the service of the respondent workers were retrenched along with several others by the U.P. Forest Corporation in accordance with the provisions of U.P. Industrial Disputes Act, 1947.

The services of the respondent were retrenched by order dated 30.05.1995 and 31.05.1995 after giving one month's wage in lieu of notice and retrenchment compensation in compliance of Section 6-N of the Industrial Act, 1947 and also such payments were received by the respondents without any protest.

An industrial dispute was raised by the respondents and the Labour Court, Dehradun in the Award held that the retrenchment order was legal and valid as the provisions of Section 6-N of the U.P. Industrial Disputes Act were fully complied with. Further, it held that the provisions of Section 25N of the Industrial Disputes Act are not attracted as the Forest Corporation is not an industrial establishment as defined in Section 25L of Chapter-VB of the Industrial Disputes Act.

Aggrieved by the Award dated 24.12.1997, Jabar Singh and Others filed Writ Petition No. 8351 of 1999. The Writ Petition No. 1376 of 2001 along with other writ petitions was allowed by the High Court on 21.08.2003 with the direction that writ petitioners shall be put back on duty and shall be paid salary/wages.

The question which fell for determination was whether the provisions of Section 25N of the Industrial Disputes Act, 1947 are attracted or not and whether for non-compliance of the conditions contained in section 25N, retrenchment order as well as award are illegal and non est.

The High Court observed that the appropriate Government by framing the Rules known as the Industrial Disputes (Uttar Pradesh) Rules, 1976 have made Section 25N applicable in relation to Industrial establishment in the State of U.P.

In view of the above the question which was raised was whether the Forest Corporation is an Industrial establishment within the definition of Section 25L or not.

FINDINGS:

The High Court held that the Forest Corporation carries the activity of cutting, removal, disposal and sale of trees over the area allotted to the Corporation and, therefore, the area of the land over which such activities are carried on is "premises". Thus, the first requirement of the definition of factory is satisfied.

The High Court held that cutting of trees by axe and shaping the cut trees into logs is a manufacturing process under the definition of Section 2(k) of the Factories Act and therefore it is an industrial establishment within the meaning of Section 25-L of the Industrial Disputes Act.

The High Court held that since the retrenchment was made without complying with the provisions of Section 25N of the Industrial Disputes Act, the retrenchment order was void and accordingly the

said order of retrenchment was quashed. The High Court further directed that the writ petitioner shall be put back on duty and shall be paid salary/wages.

We heard Mr. L. Nageshwar Rao, learned senior counsel for the appellant and Mr. Dhruv Mehta for the respondents in SLP (C) Nos. 3553 of 2004, 7548 of 2004 and 15498 of 2004 and Mr. Bharat Sangal for respondent Nos. 1-12 in SLP (C) Nos. 24584 of 2003.

Mr. L. Nageshwar Rao made the following submissions at the time of hearing on behalf of the appellant-Corporation. He submitted that:

(1) the provisions of Factory Act do not apply to the appellant- Corporation inasmuch as it does not fall within the definition of factory as no manufacturing process is being carried on with or without the said power. At this stage, it is necessary to reproduce the definition of `factory' and `manufacturing process' as given in the Act:

Section 2(m) of the Act defines `Factory' as under:-

"factory" means any premises including the precincts thereof-

(i) .....

(ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on.

Manufacturing process is defined under Section 2(k) of the Factories Act which reads as under:-

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or ...

(ii)....

(iii)....

(iv)....

(v).....

(vi)...."

(2) to constitute a manufacture, there must be a transformation. The mere labour bestowed on an article even if the labour is applied through machinery will not make it a manufacture, unless it has progressed so far that a transformation ensues, and the article becomes commercially known as another and different article from that as it had began its existence.

(3) the Corporation carries on activity of cutting of trees and converting into logs with respect to the area allotted to it by the State Government and that the cutting of trees is not a manufacturing

process because the log made by cutting of trees is still a raw material.

(4) that the entire activity of appellant of cutting trees and converting into logs does not make any change so far as article is concerned. The article is neither treated nor adapted but on the contrary, the article is sold to customers in the same form in which it was received in the depots of the Corporation. The expression adapting means something to be done to the article so as to make it different from what it was before. Therefore, the words making, altering, packing, oiling etc, in the definition of manufacturing process should be read jointly with `otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal.

For the above-said proposition, Mr. Rao sought indulgence of this Court to rely upon the following judgments:

1. Col. Sardar C.S. Angre v. The State and Anr., AIR (1965) Rajasthan 65.

The question involved was as to whether the grading of the potatoes for storing in the cold storage or the process of drying of the potatoes amount to a manufacturing process or not. The said question was considered in the light of the expression "otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal" as contained in the definition of manufacturing process given in the Act. It was held as under:-

"If the gradation or the sorting is with a view to bring into existence standardized goods of a particular category or variety saleable as such, I do not see any difficulty in treating grading or sorting as a manufacturing process. If, on the other hand, grading is only casual and is not done with a view to achieve the object indicated earlier, grading will not be a manufacturing process."

Similarly, for the process of drying, it was held as under:-

"The process of drying has also to be considered in relation to the adaptability of the article for sale or use. In the present case, the process of drying is adopted only to remove the moisture collected during the process of refrigeration and not with a view to adapt the potatoes for sale. In other words, it cannot be said that the process is necessary for making the potatoes saleable as such. The process of drying also in this view of the matter cannot be considered a manufacturing process.

Then, it was held as under:-

"The essential question to be considered is whether the cold storage is used primarily for the purposes of storage or is used for bringing into existence commodities which may be treated as commercially different from what they were at the time they entered the premises. In the present case, the cold storage appears to be used only for storage purposes and there is nothing in the complaint to suggest that the refrigeration was with a view to the adaption of the potatoes to their sale."

Some observations made in Re: A.M. Chinniah, AIR (1957) Madras 755 were brought to the notice of the learned single Judge of the Rajasthan High Court. The observation made by the Madras High Court is detailed below:-

"To sum up, to constitute a manufacture there must be a transformation. Mere labour bestowed on

an article even if the labour is applied through machinery, will not make it a manufacture, unless it has progressed so far that a transformation ensues and the articles become commercially known as an other and distinct article from that as which it begins its existence."

2. Ardeshir H. Bhiwandiwala v. The State of Bombay, [1961] 3 SCR 592.

The main question for determination in this appeal is whether the Salt Works come within the definition of the word "factory" under clause (m) of Section 2 of the Act. The Salt Works extend over an area of about 250 acres. The only buildings on this land consist of temporary shelters constructed for the resident labour and for an office. At a few places, pucca platforms exist for fixing the water pump when required to pump water from the sea. The entire area of the Salt Works is open. On the seaside, it has bunds in order to prevent sea water flooding the salt pans. It was contended before this Court that the expression "premises" in the definition of the word "factory" means "buildings" and that "mere open land" is not covered by the word "premises" and as there are no buildings except temporary sheds on the Salt Works, the Salt Works cannot be said to be a "factory". This Court held:

"That the salt works was a factory within the definition given in the Act and that the appellant was rightly convicted for working it without a license. The word "premises" is a generic term meaning open land or land with buildings or buildings alone; the salt works came within the expression "premises" in the definition of the word "factory". The extraction of salt from seawater was not due to merely to natural forces but was due to human efforts aided by natural forces. The process of conversion of sea water into salt was a "manufacturing process" as defined in cl. (k) of S.2, inasmuch as salt was manufactured from seawater by a process of treatment and adaptation. By this process seawater, a non- commercial article, was converted into a different thing salt, a commercial article."

3. Another authority being relied upon by the Corporation is Employees State Insurance Corporation v. M/s Triplex Dry Cleaners, (1982) PLR Vol.LXXXIV 1982.

In this case, the question arose as to whether the activity of washing and cleaning in a dry-cleaners business is a `manufacturing process' or not. Relying upon the judgments of Madras High court and Rajasthan High Court in re: A.M. Chinniah, AIR (1957) Mad.775: (1957) Crl.L.J.1418) and in Col. Sardar C.S. Angre v. State, AIR (1965) Raj 65: (1965) 1 Crl.L.J.333, the test for `manufacturing process' was applied that there must be a transformation. In other words, some new article or substance should come into being with a view that the same can be used, sold, transported, delivered or disposed off in order to call the process as `manufacturing process'. It was held as under:-

"The scheme of the Act seems to be that if washing and cleaning is one of the processes in a manufacturing concern, then the part of the premises where washing and cleaning is being done would be deemed to be `manufacturing process'. Similarly, where only washing and cleaning process is run with power in such a way for example that coarse cloth is turned into fine cloth with the result that a superior marketable commodity, article or substance is produced, which is independently known in the market that the commodity, article or substance as it was before the same was washed or cleaned, then the process of washing and cleaning would be termed `manufacturing process'. Therefore, in either of the aforesaid two situations, the process of washing and cleaning would come within the definition of `manufacturing process'. The dry-cleaning business does not fall in any of the two".

4. In Sh. Bhag Singh v. ESIC, (1983) LIC 412, it was held as under:

"A reading of the definition of manufacturing process contained in S.2(k) of that Act would show that pumping of oil is one of the manufacturing process. Whether selling of petrol or diesel at a petrol pump can be called a process of pumping of oil would again be a question to be looked into. A perusal of the definition shows that the process of pumping oil, water, sewage or any other substance has also been defined to be a manufacturing process but to my mind this would not include dealership of petrol or diesel. It is true that some pumping process is involved because petrol and diesel is stored by the petrol dealers in huge tanks but the underlying object of the definition seems to be the pumping of oil from refineries or water from underground the earth and so on. Essentially, the business carried on by a petrol pump dealer is to sell petrol or diesel as the case may be and not pumping the oil. I am, therefore, of the firm view that selling of petrol or diesel by a petrol dealer will not be a `manufacturing process'."

It is submitted that the Corporation is not a factory within the definition of Factories Act as the forest corporation does not work in any premises or place surrounded by a boundary and that the Corporation undertakes the work of cutting of trees earmarked at different places in the forest, which cannot be said to be factory.

5. Tega India Ltd. v. Commissioner, Central Excise, Calcutta II, [2004] 2 SCC 727

The appellants Tega India limited carried on the business of fixing rubber linings of pipes, tanks and other such articles supplied by their customers. After fixing the lining, they returned the articles. They were issued a show-cause notice claiming that they were manufacturing dutiable goods and that they were not declaring the correct value. Accepting their reply, the notice was dropped but the Collector (Appeals) allowed the Revenue's Appeal and CEGAT upheld that decision. The appellants then filed the appeal before this Court.

This Court held as under:

"Case-law shows that circulars issued by the Central Board of Excise and Customs are binding. The law also is that if a tariff item makes no difference between coated and uncoated goods then the mere process of coating would not amount to manufacture of some new commodity. Merely because some extra process is carried on the product would not by itself mean that a new item has come into existence."

6. S.G. Chemicals and Dyes Trading Employees' Union v. S.G. Chemicals and Dyes Trading Limited and Anr., [1986] 2 SCC 624. This Court held:

12. The first thing to notice about Clause (m) of Section 2 of the Factories Act is that it defines a "Factory" as meaning "any premises including the precincts thereof" and it does not define it as meaning "any one premises including the precincts thereof". Under this definition, therefore, it is not required that the industrial establishment must be situate in any one premises only. The second thing to notice about Clause (m) is that the premises must be such as in any part thereof a manufacturing process is being carried on. The expression "manufacturing process" is defined in Clause (k) of Section 2 of the Factories Act. The said Clause (k) is as follows:

(k) `manufacturing process' means any process for-

(i) making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal, or

(ii) pumping oil, water, sewage or any other substance, or ;

(iii) generating, transforming or transmitting power, or

(iv) composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding; or

(v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels ; or

(vi) preserving or storing any article in cold storage.

Thus, the different processes set out in Sub-clause (i) of Clause (k) of Section 2 must be with a view to the use, sale, transport, delivery or disposal of the article or substances manufactured."

7. Kores India Ltd., Chennai v. Commissioner of Central Excise, Chennai, [2005] 1 SCC 385

This Court held in para 12 as under:

12. `Manufacture' is a transformation of an article, which is commercially different from the one, which is converted. The essence of manufacture is the change of one object to another for the purpose of making it marketable. The essential point thus is that in manufacture something is brought into existence, which is different from that, which originally existed in the sense that the thing produced is by itself a commercially different commodity whereas in the case of processing it is not necessary to produce a commercially different article.

8. In Nagpur Electric Light and Power Co. Ltd. v. The Regional Director, Employees' State Insurance Corporation, [1967] 3 SCR 92 AIR (1967) SC 1364

This Court, in the above case, had to consider whether certain employees of the Nagpur Electric Light and Power Company were employees within the meaning of Section 2(g) of the ESI Act, 1948. Bachawat J. delivering the judgment of the Court observed:-

"...The premises constituting a factory may be a building or open land or both. (see Ardeshir H. Bhiwandiwala v. State of Bombay, AIR 1962 SC 29). Inside the same compound wall there may be two or more premises, the premises used in connection with manufacturing processes may constitute a factory and the other premises within the same compound wall may be used for purposes unconnected with any manufacturing process and may form no part of the factory."

Dealing with the reasoning of the High Court that the whole area over which the process of transmission was carried on including the sub-station where electricity was stored and supplied to the consumers by further transmission lines would be a factory, it was said:-

"We cannot accept this line of reasoning. It seems to us a startling proposition that every inch of the wide area over which the transmission lines are spread is a factory within the meaning of Section 2(12). A factory must occupy a fixed site....."

9. In Workmen of Delhi Electric Supply Undertaking v. The Management of Delhi Electric Supply Undertaking, AIR (1973) SC 365, this Court held:

"18. Section 2(12) referred to in the above quotation is of the Employees State Insurance Act. It is clear from this decision that the factory must occupy a fixed site or premises. The evidence on record clearly shows that several substations and zonal stations are left unattended. This will not be the case if a manufacturing process takes place in those premises. A perusal of the nature of the work that the concerned workmen have to do even as enumerated in their statement of claim before the Tribunal clearly shows that they have no part in any manufacturing process. Their functions appear to be to maintain the existing lines of generation, transmission and transformation of power in their respective areas, to attend to installation and other incidental matters when a new connection has been given to a consumer. They have to attend to daily complaints from `the consumers, keep regular reports and attend to the defects in the consumers' premises. They have to go out for field work and they have to sit in office for maintenance and preparation of the relevant records. It cannot be said that any manufacturing process either takes place in the sub-stations or in the zonal stations and they do not satisfy the definition of "factory" under Section 2(m) of the Factories Act. If these places are not factories. Clause (a) of Regulation No. 17 will not apply to the concerned workmen who are employed therein."

10. Lal Mohammad and Ors. v. Indian Railway Construction Co. Ltd. and Ors., [1999] 1 SCC 596

The respondent, in this case, Indian Railway Construction Company Limited was carrying on various construction projects. It was, at the relevant time, executing a construction of a project of construction of railway line of 54 kms. It served retrenchment notices on the appellant-workers. The notices stated that since most of the work in the project was over and no other work was available, they were rendered surplus and, therefore, retrenchment benefits under Section 25-F(b) of the Industrial Disputes Act were being offered to them. A learned Judge of the Allahabad High Court held the said notices to be null and void and for non-compliance with Section 25-N of the Industrial Disputes Act. A Division Bench of the High Court, however, reversed that decision. Before this Court denying the applicability of Section 25-N to the case, the respondent-Company contended that it was not an "industrial establishment" as defined by Section 25-L of the ID Act read with Section 2(m) of the Factories Act. It added that a "factory" must have a fixed site and the entire project spread over 54 kms could not be a "factory". Another aspect which needed examination at this stage was whether any manufacturing process was being carried on so as to render the respondent-Company, a factory. Reversing the decision of the Division Bench on this point also, this Court held:

"15. That takes us to the consideration of the second reason which weighed with the High Court for dispensing with the applicability of Section 25-N in the present case. As noted earlier, Sub-section (1) of Section 25-N lays down the procedure as conditions precedent to retrenchment of workmen employed in an `industrial establishment' to which Chapter V-B applies. Section 25-N is in Chapter V-B. We have, therefore, to turn to Section 25-L which lays down the requirements of `industrial establishment governed by Chapter V-B. It is a definition section which lays down that for the purpose of Chapter V-B an industrial establishment amongst others would mean "(i) a factory as

defined in clause(m) of Section 2 of the Factories Act, 1948 (63 of 1948)". This is not an inclusive definition. Therefore, all its requirements have to be met by an establishment so as to fall in Chapter V-B.

16. We are not concerned with other parts of the said definition. It, therefore, becomes necessary to find out as to whether Rihand Nagar project of the Respondent company was an `industrial establishment' meaning thereby whether it was a `factory' as defined in Clause (m) of Section 2 of the Factories Act., 1948. It is obvious that if it was not such a `factory', it would not be an `industrial establishment' governed by Chapter V-B. Consequently, the workmen employed therein would not be covered by Section 25-N Sub-section (1).

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In the light of the aforesaid definition, in order that the project in question can be treated to be a `factory', the following requirements of the definition have to be fulfilled:

(i) In the premises, including the precincts thereof, ten or more workmen must be working where manufacturing process is carried out with the aid of power, or

(ii) where twenty or more workmen must be working at the relevant time and in any part of such premises manufacturing process is being carried on without the aid of power; or

(iii) In any case manufacturing process must be carried on in any part of the premises;

So far as the first and the second requirements are concerned, it cannot be disputed that at the relevant time when the impugned notices of 1993 were served on the appellants more than hundred workmen were working in the premises. Consequently, the question whether the construction of railway line was being done with the aid of power or without the aid of power pales into insignificance. Therefore, the remaining requirement (iii) for applicability of the definition of the term `factory' which becomes relevant is whether any `manufacturing process' was being carried on in the premises or any part thereof. Consideration of this aspect will require fulfilment of twin conditions, namely, i) whether the project was having any `premises' where the work was being carried on by these workmen; ii) whether the work which was carried on by them amounted to a `manufacturing process'. The term "premises" is not defined by the Act, but the term `manufacturing process' is defined in Section 2(k) of the Factories Act

Xxxx xxxx

We shall first deal with the question whether Rihand Nagar Project of the Respondent was having any `premises'. Mr. Dave, learned senior counsel for the Respondent placed strong reliance on a decision of this Court in Workmen of Delhi Electric Supply Undertaking v. The Management of Delhi Electric Supply Undertaking, [1974] 3 SCC 108, for submitting that the definition of the term `factory' in Section 2(m) of the Factories Act, 1948 requires fixed site. In para 18 of the Report, it is observed that "the factory must occupy a fixed site or premises". In that case, the question was whether the sub-stations and zonal stations of Delhi Electric Supply Undertaking where no manufacturing process was being carried out could be considered to be a `factory'. Answering it in the negative it was held that "after the electricity is generated when the current passes through the transmission lines and reaches the sub-stations no further `manufacturing process' of electricity takes

place". While answering the said question, reliance was placed on the observations of Halsbury's Laws of England, 3rd Edition, Volume 70 to the effect that a `factory' must occupy a fixed site. Reliance was also placed on the observations of this Court in an earlier judgment in Nagpur Electric Light & Power Co. Ltd. v. Regional Director, Employees State Insurance Corporation Etc., [1967] 3 SCR 92, for supporting the same proposition on the same lines. Mr. Dave, invited our attention to an earlier Constitution Bench Judgment of this Court in Ardeshir H. Bhiwandiwala v. The State of Bombay, [1961] 3 SCR 592, wherein at page 595, interpreting the very same definition, it was observed that "premises" has gradually acquired the popular sense of land or buildings and ordinarily the word "premises" is a generic term meaning "open land or land with buildings or buildings alone". Relying on the aforesaid judgments, it was contended by Shri Dave, learned senior counsel for the Respondent that on the facts of the present case, Rihand Nagar Project which was concerned with construction and laying down of railway lines spread over 54 KMs, can not be said to constitute a `factory' as it had no fixed site.

17. It is true that the word "premises" occurring in the definition of "factory" in Section 2(m) of the Factories Act, 1948, implies a fixed site but that word not only covers building out even open land can also be a part of the premises. For laying down a railway line, a number of workmen, supervisors and other clerical staff will have to attend the site where the railway line is to be laid. That site on which the railway line is to be laid will necessarily have space for storage of loose rails, sleepers, bolts etc. All these articles will have to be laid and fixed on a given site before any part of the railway track becomes ready. Consequently, construction of a railway line would necessarily imply fixed sites on which such construction activity gets carried on in a phased manner. Thus, even though the railway line is to be laid over 54 kms of land, every part of the said land would consist of a "factory" at a given point of time as from time to time in a phased manner, the entire railway line will have to be laid. Once the entire work is finished, then a stage would be reached when the construction activity would come to an end and the premises thereof may cease to be a "factory" but so long as construction activity takes place would form a part and parcel of the "premises" as such.

18. As regards the question whether any "manufacturing activity" was being carried on in Rihand Nagar Project, the definition of the said term as contained in Section 2(k) (i) of the Factories Act is relevant. Definitely raw materials like railway sleepers, bolts and loose railway rails when bought by the respondent-Company from the open market and brought on the site were articles visible to the eyes and were moveable articles. These articles were adapted for their use. Their use was for ultimately laying down a railway line. In that process, sleepers, bolts and rails would get used up. If that happens, the definition of "manufacturing process" dealing with adaptation of these articles for use would squarely get attracted. The definition of "manufacturing process" in Section 2(k) of the Factories Act has nothing to do with that contained in Central Excises and Salt Act, 1944 where the end product must be a moveable commodity. Therefore, all the appellant-workers would squarely attract the definition of the term `workmen' as found in Section 2(l) of the Factories Act as they were working for remuneration in a manufacturing process carried out by the project in question. It must, therefore, to be held that all the requirements of the term "factory" as defined by Section 2(m) of the Factories Act are satisfied on the facts of the present case. Consequently, Section 25-N applies to the facts of the present case."

In view of the above, Mr. Rao submitted that the appellant-Corporation is neither a factory within the meaning of Section 2(m) of the Factories Act nor did it carry manufacturing process as defined in Section 2(k) of the Factories Act. Thus, the appellant-Corporation cannot be treated as an industrial establishment within the meaning of Section 25-L of the Industrial Disputes Act.

NON-MAINTAINABILITY OF WRIT PETITION:

Mr. Rao submitted the writ petitions filed by the retrenched employees directly in the High Court was not maintainable in view of the settled position in law that alternative remedy under the Industrial Disputes Act must be initially availed. In this batch of 38 cases, 22 cases have not gone to Tribunal and they approached directly to the High Court by filing the writ petitions. The termination order was passed in the year 1995. The writ petitions were filed in the year 2005 and the High Court mechanically decided all these cases in the light of Jabar Singh's case. The details of cases which have not gone before the Tribunal and were decided in the writ petitions filed by the respondents-herein in the light of the Jabar Singh's case are as follows:-

S.No. W.P. Nos. Particulars

1. 1730/2001 SLP(C) No. 3399/2004
2. 1529/2001 SLP(C) No. 8552/2004
3. 1729/2001 SLP(C) No. 8553/2004
4. 141/2004 SLP(C) No. 10712/2004
5. 150/2004 SLP(C) No.13425/2004
6. 450/2004 SLP(C) No. 13446/2004
7. 142/2004 SLP(C) No. 13813/2004
8. 151/2004 SLP(C) No. 14327/2004
9. 6926/2004 SLP(C) No. 15498/2004
10. 449/2003 SLP(C) No. 21790/2004
11. 448/2003 SLP(C) No. 21791/2004
12. 551/2003 SLP(C) No. 5297/2005
13. 1064/2004 SLP(C) No. 24706/2005
14. 4160/2005 SLP(C) No. 25258/2005
15. 158/2005 SLP(C) No.25001/2005
16. 1281/2005 SLP(C) No. 25075/2005
17. 1059/2004 SLP(C) No. 26042/2005
18. 1280/2005 SLP(C) No. 25203/2005
19. 160/2005 SLP(C) No.25258/2005
20. 1281/2005 SLP(C) No. 25075/2005
21. 1059/2005 SLP(C) No. 26042/2005

In support of the above contention, Mr. Rao placed strong reliance on the recent pronouncement of this Court in U.P. State Spinning Co. Ltd. v. R.S. Pandey and Anr., [2005] 8 SCC 264 at 273. Hon'ble Arijit Pasayat J. speaking for the Bench observed:

"20. In a catena of decisions it has been held that writ petition under Article 226 of the Constitution should not be entertained when the statutory remedy is available under the Act, unless exceptional circumstances are made out.

21. In U.P. State Bridge Corporation Ltd. and Ors. v. U.P. Rajya Setu Nigam S. Karamchari Sangh, it was held that when the dispute relates to enforcement of a right or obligation under the statute and specific remedy is, therefore, provided under the statute, the High Court should not deviate from the general view and interfere under Article 226 except when a very strong case is made out for making

a departure. The person who insists upon such remedy can avail of the process as provided under the statute. To same effect are the decisions in Premier Automobiles Ltd. v. Kamlekar Shantarum Wadke, Rajasthan SRTC v. Krishna Kant, , Chandrakant Tukaram Nikam v. Muncipal Corporation of Ahmedabad, and in Scooters India and Ors. v. Vijai EV. Eldred,.

22. In Rajasthan SRTC v. Krishna Kant (supra), it was observed as follows:

"A speedy, inexpensive and effective forum for resolution of disputes arising between workmen and their employers. The idea has been to ensure that the workmen do not get caught in the labyrinth of civil courts with their layers upon layers of appeals and revisions and the elaborate procedural laws, which the workmen can ill afford. The procedure followed by civil courts, it was thought, would not facilitate a prompt and effective disposal of these disputes. As against this, the courts and tribunals created by the Industrial Disputes Act are not shackled by these procedural laws nor is their award subject to any appeals or revisions. Because of their informality, the workmen and their representatives can themselves prosecute or defend their cases. These forums are empowered to grant such relief as they think just and appropriate. They can even substitute the punishment in many cases. They can make and re-make the contracts, settlement, wage structures and what not. Their awards are no doubt amenable to jurisdiction of the High Court under Article 226 as also to the jurisdiction of this Court under Article 32, but they are extraordinary remedies subject to several self-imposed constraints. It is, therefore, always in the interest of the workmen that disputes concerning them are adjudicated in the forums created by the Act and not in a civil court. That is the entire policy underlying the vast array of enactments concerning workmen. This legislative policy and intendment should necessarily weigh with the courts in interpreting these enactments and the disputes arising under them".

23. In Basant Kumar Sarkar and Ors. v. Eagle Rolling Mills Ltd., and Ors., the Constitution Bench of this Court observed as follows:

"It is true that the powers conferred on the High Courts under Article 226 are very wide, but it is not suggested by Mr. Chatterjee that even these powers can take in within their sweep industrial disputes of the kind which this contention seeks to raise. Therefore, without expressing any opinion on the merits of the contention, we would confirm the finding of the High Court that the proper remedy which is available to the appellants to ventilate their grievances in respect of the said notices and circulars is to take recourse to s. 10 of the Industrial Disputes Act, or seek relief, if possible, under Sections 74 and 75 of the Act."

The above position was recently highlighted in Hindustan Steel Works Construction Ltd. and Anr. v. Hindustan Steel Works Construction Ltd. Employees Union.

24. Accordingly the conclusion is inevitable that the High Court was not justified in entertaining the writ petition. Usually when writ petition is entertained notwithstanding availability of alternative remedy and issues are decided on merits, this Court is slow to interfere merely on the ground of availability of alternative remedy. But the facts of the present case have special features, which warrant interference."

WRIT PETITION BARRED BY LACHES:

Mr. L. Nageshwar Rao submitted that the High Court was not justified in entertaining the writ

petition on the ground that the petition has been filed after a period of 8-10 years and that the petition should have been dismissed by the High Court on the ground of laches. Reliance was placed on Haryana State Coop. Land Development Bank v. Neelam, [2005] 5 SCC 91. Speaking for the Bench, Hon'ble S.B.sinha, J. observed:

"18. It is trite that the courts and tribunals having plenary jurisdiction have discretionary power to grant an appropriate relief to the parties. The aim and object of the Industrial Disputes Act may be to impart social justice to the workman but the same by itself would not mean that irrespective of his conduct a workman would automatically be entitled to relief. The procedural laws like estoppel, waiver and acquiescence are equally applicable to the industrial proceedings. A person in certain situation may even be held to be bound by the doctrine of Acceptance Sub silentio. The Respondent herein did not raise any industrial dispute questioning the termination of her services within a reasonable time. She even accepted an alternative employment and has been continuing therein from 10.8.1988.

20. It is true that the Respondent had filed a writ petition within a period of three years but indisputably the same was filed only after the other workmen obtained same relief from the Labour Court in a reference made in that behalf by the State. Evidently in the writ petition she was not in a position to establish her legal right so as to obtain a writ of or in the nature of mandamus directing the Appellant herein to reinstate her in service. She was advised to withdraw the writ petition presumably because she would not have obtained any relief in the said proceeding. Even the High Court could have dismissed the writ petition on the ground of delay or could have otherwise refused to exercise its discretionary jurisdiction. The conduct of the Respondent in approaching the Labour Court after more than seven years had, therefore, been considered to be a relevant factor by the Labour Court for refusing to grant any relief to her. Such a consideration on the part of the Labour Court cannot be said to be an irrelevant one. The Labour Court in the aforementioned situation cannot be said to have exercised its discretionary jurisdiction injudiciously, arbitrarily and capriciously warranting interference at the hands of the High Court in exercise of its discretionary jurisdiction under Article 226 of the Constitution."

Mr. Dhruv Mehta, learned counsel appearing for some of the respondents made elaborate submissions on the statement of objects and reasons of Section 25-N and also cited Workmen of Meenakshi Mills Limited v. Meenakshi Mills Limited and Anr., [1992] 3 SCC 336. He referred to Section 25-L (a) of the Industrial Disputes Act and made submissions on that. Our attention was also drawn to the definition of `manufacturing process' under Section 2(k) of the Factories Act, 1948. He submitted that the definition of `manufacturing process' is in very wide terms and that since words of wide amplitude have been mentioned in the definition, a construction which will sub-serve the object of the legislation should be preferred. He cited the following two decisions:

1. Nathi Devi v. Radha Devi Gupta, [2005] 2 SCC 271,

2. Indian Handicrafts Emporium and Ors. v. Union of India and Ors., [2003] 7 SCC 589 and submitted that this Court has applied the principle of purposive construction in several decisions in construing statutory provisions. It is further submitted that the legislation is for the welfare of the workers and construction which would achieve the object of the beneficial legislation should be preferred. In support of this submission, reliance was placed on the following decisions:

1. Ardeshi Bhiwandiwala v. State of Bombay, [1961] 3 SCR 592 and 2. Bharat Singh v.

Management of New Delhi Tuberculosis Centre, New Delhi, (1986) 2 SCC 614.

With regard to non-compliance of Section 25-N, Mr. Mehta submitted that since the Corporation is an `Industrial Establishment' as defined under Section 25-L (a), the provisions of Section 25-N are attracted. According to him, Section 25-N has not been complied with in this case. Sub-section 7 of Section 25-N provides for the consequence of non-compliance of Section 25-N and by statutory fiction the retrenchment order is deemed to be invalid and the workman is entitled to all the benefits under the law. He cited the decision reported in Lal Mohammed's case (supra) which held that the retrenchment order without following the condition precedent under Section 25-N is to be treated as void and of no legal effect.

Insofar as the filing of writ petitions directly in the High Court and by way of reply to the argument of Mr. Rao, Mr. Mehta submitted that availability of alternative remedy is only a Rule of prudence and in a case like the present one where there were no disputed questions of fact and the High Court had already decided the matter in Jabar Singh's case, the High Court, was justified in entertaining the writ petition.

Mr. Bharat Sangal, learned counsel appearing for the respondent Nos. 1-12 in SLP (C) No. 24584 of 2003 submitted as under:-

That the Award of the Labour Court which held that the retrenchment orders were in full compliance of the provisions of Section 6-N of the U.P. Act and there was sufficient reason for the Corporation to retain the juniors in service. However, on the question of compliance with requirements of Section 25-N of the Industrial Disputes Act, the Labour Court took the view that firstly the present case is covered by the provisions of the U.P. Act and not by the provisions of the Industrial Disputes Act and there being no provision in the U.P. Act equivalent to Section 25-N of the Industrial Disputes Act, the said Section 25-N will not apply to the present case.

The Labour Court further held that Section 25-N is contained in Chapter V-B of the Industrial Disputes Act and the said Chapter, as per Section 25-K only applies to those industrial establishments which employ 100 or more workmen. Further Section 25-L defines an industrial establishment to mean a factory as defined in Clause 2(m) of the Factories Act, 1948. However, Section 2(m) of the Factories Act defines a factory to be a premises including the precincts thereof where manufacturing process is carried out. The Labour Court held that neither the area where the trees are cut by the respondents would constitute a premises nor would cutting of trees amount to manufacturing process. The respondent-workmen filed Writ Petition No. 1376 of 2001 before the High Court which by its impugned judgment quashed the Award on the ground that the working of the appellant-Corporation fully fell within the definition of factory under Section 2(m) of the Factories Act, 1948 and, therefore, Section 25-N was applicable to the Corporation especially as the State Government of U.P. in exercise of its powers under Section 38 of the Industrial Disputes Act framed Industrial Disputes (U.P.) Rules, 1976 by which Section 25-N of the Industrial Disputes Act was made applicable to the State of U.P. Consequently, the High Court quashed the retrenchment orders as not being in compliance with the provisions of Section25-N.

Before proceeding to consider the rival submissions made by the learned counsel appearing on either side, we would like to refer to the argument of Mr. Rao, senior counsel who has very fairly conceded that Section 25-N is applicable to the State of U.P. as per the 1976 Rules mentioned hereinabove. He also conceded that in view of the judgment of the Constitution Bench of this Court

in A.M. Bhiwandiwala v. State of Bombay, [1961] 3 SCR 592 at pages 594-598, Mr. Rao did not want to press the question of premises and confined his arguments to the issue that cutting of trees does not amount to manufacturing process. Therefore, the arguments were confined to the question of manufacturing process alone.

Mr. Bharat Sangal, learned counsel submitted that manufacturing process as defined in the Factories Act in Section 2(k) can be divided into three parts, namely:

(i) The process - "making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adapting"

(ii) The object - "any article or substance"

(iii) The purpose - "with a view to its use, sale, transport, delivery or disposal."

In the present case, it is admitted on both sides that the work of the respondents consisted of "cutting of trees by axe and changing the shape of the timber into logs by using hand driven saw". In our view, the process of cutting by axe and changing the shape by saw both squarely fall within the definition of the first part of the manufacturing process as cutting would be included in the processes of "making" and "breaking up" included in the said definition. Further, the changing of shape by saw would be included in the processes of "altering" and "adapting" of the trees. Admittedly, trees and logs both fall within the meaning of "any article or substance", the second part of the definition. Lastly, the conversion of trees into logs is admittedly for the purpose of sale, disposal, use and last but not the least for transport all of which fall within the third part of the definition.

It is noteworthy that this Court in the judgment reported in Ardeshi Bhiwandiwala's case (supra) has specifically held that salt prepared by evaporation of brine in salt packs spread over an area of 254 acres would also constitute a manufacturing process so as to include the salt works in the definition of factory. This Court in Lal Mohammad and Ors. case (supra) has held that construction of a railway line over a length of 54 miles would also constitute a manufacturing process and all the patches of land on which actual work is taking place from time to time to build rail line would be a factory for the purpose of Section 2(m). This Court also gave the example of construction of electricity transmission lines which would be a manufacturing process though the process of actual transmission of electricity may not be so.

Mr. Bharat Sangal, therefore, submitted that the work of cutting of trees and converting them into logs constitute manufacturing process for the purpose of Section 2(k) of the Factories Act and the various areas of the forest where the said work is being conducted would form part of the factory for the purposes of Section 2(m) of the said Act. Thus, the establishment of the appellant-Corporation would, in our opinion, fall within the definition of Industrial Establishment as contained in Section 25-L and, therefore, Section 25-N would be applicable to the establishment of the appellant-Corporation. It is also submitted that though Uttaranchal Forest Corporation is covered by the provisions of the U.P. Act, however, in terms of the 1976 Rules Section 25-N of the Industrial Disputes Act is applicable to the State of Uttaranchal and, therefore, to the establishment of the appellant-Corporation.

The appellant-Corporation, while issuing the retrenchment notices dated 31.05.1995 as well as other

notices issued between 31.03.1995 to 31.05.1995, did not comply with either of the two requirements of Section 25-N, namely, giving 3 months notice to the workman in writing or paying them 3 months wages in lieu thereof and taking of prior permission from the appropriate Government, the retrenchment of the respondent-workmen by the Corporation was done contrary to the provisions of clause (1) of Section 25-N and is illegal.

Clause 7 of Section 25-N statutorily provides that "where no application for permission under sub-section (1) is made or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him". The submission made in this behalf by learned counsel for the respondents merit acceptance. Thus, the retrenchment notices mentioned above being illegal from the date of the said notices and the workmen being entitled to all the benefits, in the present case, all the concerned workmen are entitled to be reinstated with full back-wages and continuity of service.

Mr. Dhruv Mehta also submitted that the retrenchment orders passed by the Corporation are invalid in law for non-compliance with the statutory provisions of Section 25-N of the Industrial Disputes Act, 1947. Section 25-N which falls in Chapter-V-B was inserted by Act No.32 of 1976 w.e.f. 05.03.1976 and as the heading suggest deals with special provisions relating to layoff, retrenchment and closure in certain establishments. The objects and reasons and the circumstances which led to the enactment of this Chapter which includes Section 25-N have been discussed by this Court in a Constitution Bench judgment rendered in the case of Workmen of Meenakshi Mills Limited and Ors. v. Meenakshi Mills Limited and Anr., [1992] 3 SCC 336. The relevant portion of para 22 is set out herein below:

"By requiring prior scrutiny of the reasons for the proposed retrenchment in industrial establishments employing not less than 300 workers, Section 25-N seeks to prevent the hardship that may be caused to the affected workmen as a result of retrenchment because, at the commencement of his employment, a workman naturally expects and looks forward to security of service spread over a long period and retrenchment destroy his hopes and expectations. The retrenched workman is, suddenly and without his fault, thrown on the street and has to face the grim problem of unemployment. See: The Indian Hume Pipe Co. Ltd. v. The Workmen, [1960] 2 SCR 32, at pp.36-37. Often the workman is retrenched when he is advanced in age and his energies are declining and it becomes difficult for him to compete in the employment market with younger people in securing employment. Retrenchment compensation payable under Section 25-F may be of some assistance but it cannot go far to help him tide over the hardship especially when the proceedings before the Industrial Tribunal/Labour Court get prolonged. The plight of the retrenched workman has to be considered in the light of the prevailing conditions of unemployment and under employment in the country."

It is thus clear that Section 25-N was brought in for the purpose of giving protection to workmen against retrenchment by making prior scrutiny by the Government as a condition precedent.

Mr. Mehta further submitted that the Corporation falls within the definition of `Industrial Establishment' as defined in Section 25-L (a) of the Industrial Disputes Act, 1947. It is submitted that `Industrial Establishment' for the purpose of Chapter V-B means a factory as defined in Clause (m) of Section 2 of the Factories Act, 1948. It is submitted that the petitioner Corporation fully

satisfies the requirement of the definition of the `factory' as defined under section 2(m) inasmuch as the area over which the respondent workmen carry on their activity would fall within the term `premises' as understood and explained by a Constitution Bench of this Court in the decision reported in the case of Ardeshir H. Bhiwandiwala v. State of Bombay, [1961] 3 SCR 592.

The Constitution Bench clearly held in the aforementioned decision that `premises' can consist of open area and need not be confined in its meaning to buildings alone.

Mr. Mehta also made submission on the definition of `manufacturing process' under Section 2(k) of the Factories Act, 1948. The appellant has urged that in order to satisfy the definition of `factory' under Section 2(m) of the Factories Act, there must be a `manufacturing process' and the activity which was carried on by the workmen does not fall within the definition of `manufacturing process' as defined in Section 2(k) of the Factories Act, 1948. The above submission, in our opinion, is untenable in law and cannot be sustained for more than one reason. However, before dealing with the definition of `manufacturing process' as defined in section 2(k), it is necessary to briefly refer to the functions and powers of the corporation as mentioned in Sections 14 and 15 of the U.P. Forest Corporation Act, 1974. It is submitted that the functions and powers of the Corporations is inter alia to undertake removal and disposal of trees and exploitation of forests and resources. (Section14 (1) (b)). The Corporation has also the power to set up workshop or factories for processing raw materials. (Section 15 (2) (a)). The High Court after referring to the aforementioned statutory provisions in the impugned judgment observed as under: -

"...From the perusal of the functions and power including the power to undertake projects at the instance of others shows that the Corporation is totally a commercial corporation, which undertakes removal and disposal of the trees and exploitation of forest resources entrusted to it by the State Government...The corporation has power to setup workshop or a factory for processing forest raw material..."

That in so far as the question of manufacturing process is concerned, it is submitted that the activity in question fully satisfies the ingredients of the definition of `manufacturing process' as defined in Section 2(k) of the Factories Act, 1948. The relevant discussion of the High Court in so far as the activity in question is concerned is set out in the impugned judgment and for ready reference the same is given hereinbelow.

"...The trees which are allotted to the forest corporation in the area of the region are rooted in the earth being things attached to the earth are removable property by the definition of immovable property given in General Clauses Act, while timber/logs are wood cut up and sawn as held by the apex court in State of Orissa v. Titaghur Paper Mills Company Ltd. reported in 1985 Suppl. SCC 280 in para 90..."

"Cutting of trees by axe and shaping the cut trees into logs which is sold by the Forest Corporation is a manufacturing process as process of making, altering or shaping of an article is carried on inasmuch as the trees after being cut are converted and altered into logs for sale as timber. Cutting of trees and converting them into logs by employing the implements through the mechanical process with aid of workmen without aid of power is manufacturing process in which the logs and timber are a product produced after cutting of the trees which are immovable property by axe and shaping them into logs by use of saws by workmen into logs, which become articles or moveable substance and is sold by Forest Corporation..."

It was submitted that the aforesaid activity would fully comply with definition of `manufacturing process' as defined under section 2(k) of the Factories Act, 1948.

It was submitted that the activity in question in the present case could easily be said to be making or altering an Article with a view to its use, sale, transport, delivery or disposal. The word `alter' in Black's law dictionary (6th Edition at pg.77) is defined as under:-

"Alter. To make a change in; to modify; to vary in some degree; to change some of the elements or ingredients or details without substituting an entirely new thing or destroying the identity of the thing affected. To change partially. To change in one or more respects, but without destruction of existence or identity of the thing changed; to increase or diminish. See Alteration; Amend; Change."

It was submitted that the test laid down by this Court in Ardeshir's case is whether what is made shall be a different thing from that out of which it is made. In this connection it is necessary to set out the relevant paras from the Constitution Bench decision as under:-

"The observation in Grove v. Lloyds British Testing Company Ltd. (1931) A.C.466 at 467), support the view that the conservation of sea water into salt amounts to adapting it for sale. It is stated there:-

"I think `adapting for sale' points clearly to something being done to the article in question which in some way, makes it in itself a little different from what it was before."

xx xx xx

...In the present case, we are considering the definition of the expression "manufacturing process" and no dictionary meaning of the word "manufacture" for the purpose of other Acts can be of any guide. It may, however, be noted that even according to the meaning given to the word "manufacture", the conversion of brine into salt would amount to manufacture of salt as "the essence of making or of manufacturing is what is made shall be different thing from that out of which it is made" vide McNicol and Anr. v. Pinch (1906) 2 K.B.352 at 361)"

With regard to the non-maintainability of the writ petition and the contention that the writ petition by respondents were barred by laches, Mr.Mehta submitted that the availability of alternative remedy is only a rule of prudence and in a case like the present one where there were no disputed questions of fact, he submitted the High Court was justified in entertaining the writ petition. Mr. Bharat Sangal also made his submissions that this Court under Article 136 of the Constitution of India is entitled to mould the relief to be given to the workmen in the present case in view of the fact that Section 25N 7 statutorily provides all benefits to the workmen in case of illegal retrenchment, the workmen concerned in the present cases would be entitled to the said benefit without any modification or mould the relief by this Court. He, therefore, submitted that the civil appeals filed by the Corporation deserves to be dismissed in favour of the respondent-workmen.

We are unable to countenance the above submission of Mr. Mehta and Mr. Sangal insofar as it relates to the non-maintainability of the writ petition and the delay and laches. It is not in dispute that the effective alternative remedy was not availed by many of the workmen as detailed in paragraphs supra. The termination order was made in the year 1995 and the writ petitions were

admittedly filed in the year 2005 after a delay of 10 years. The High Court, in our opinion, was not justified in entertaining the writ petition on the ground that the petition has been filed after a delay of 10 years and that the writ petitions should have been dismissed by the High Court on the ground of laches. We have already referred to the decision of this Court in U.P. State Spinning Co. Ltd. v. R.S. Pandey and Anr, (supra). This Court speaking through Arijit Pasyat, J. has held in categorical terms that writ petition under Article 226 of the Constitution should not be entertained when the statutory remedy is available under the Act unless exceptional circumstances are made out.

In the instant case, the workmen have not made out any exceptional circumstances to knock the door of the High Court straightaway without availing the effective alternative remedy available under the Industrial Disputes Act. But the dispute relates to enforcement of a right or obligation under the statute and a specific remedy is, therefore, provided under the statute the High Court should not deviate from the general view and interfere under Article 226 of the Constitution except when a very strong case is made out for making a departure. There are several decisions to the same effect. The respondents have not made out any strong case for making a departure. Accordingly, the conclusion is inevitable that the High Court was not justified in entertaining the writ petition.

We are, therefore, of the opinion that the writ petitioners (respondents herein) who have not invoked the jurisdiction of the Tribunal are not entitled to any relief in the writ petitions. They are not entitled for any benefits of reinstatement, back-wages and continuity of service.

On the other hand, the respondents in civil appeals arising out of special leave petitions as detailed infra who approached the Tribunal and the High Court are entitled for the relief of reinstatement, back-wages and continuity of service in view of our finding that the appellant-Corporation is an Industrial Establishment and that provisions of Section 25N of the Industrial Disputes Act are attracted.

Learned counsel appearing for the respondents in the other civil appeals have adopted the arguments of Mr. Dhruv Mehta and Mr. Bharat Sangal.

For the foregoing reasons, we hold that the provisions of Section 25-N of the Industrial Disputes Act, 1947 are attracted and non-compliance of the said section makes retrenchment order illegal and non est.

We also hold that the appellant-Corporation is an industrial establishment within the definition of Section 25L of Chapter V-B of the Industrial Disputes Act.

We, therefore, allow the civil appeal Nos. 5730, 5740, 5741, 5742, 5744, 5745, 5746, 5749, 5750, 5752, 5754, 5755, 5756, 5758, 5759, 5760, 5761, 5757 of 2006 arising out of SLP (C) Nos. 3399/2004, 8552/2004, 8553/2004, 10712/2004, 13425/2004, 13446/2004, 13813/2004, 14327/2004, 15498/2004, 21790/2004, 21791/2004, 5297/2005, 24706/2005, 25258/2005, 25001/2005, 25075/2005, 26042/2005, 25203/2005, and dismiss the civil appeal Nos. 5728, 5729, 5731, 5732, 5733, 5734, 5735, 5736, 5737, 5738, 5739, 5747, 5748, 5751 of 2006 filed by the appellant Corporation arising out of Special Leave Petition (Civil) Nos. 24584/2003, 3189/2003, 3553/2004, 3738/2004, 3740/2004, 3793/2004, 3795/2004, 4361/2004, 4386/2004, 4391/2004, 7548/2004, 15433/2004, 15434/2004 and 21789/2004. No costs.