REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.5829-5830 OF 2021

Caparo Engineering India Ltd. …Appellant(s)

Versus

Ummed Singh Lodhi And Anr. …Respondent(s)

WITH

CIVIL APPEAL NOS.5831-5832 OF 2021

M/s. Caparo Engineering India Ltd. …Appellant(s)

Versus

Kanhaiyalal Madaria And Anr. …Respondent(s)

WITH

CIVIL APPEAL NOS.5845-5846 OF 2021

M/s. Caparo Engineering India Ltd. …Appellant(s)

Versus

Mohanlal And Anr. …Respondent(s)

WITH

CIVIL APPEAL NOS.5843-5844 OF 2021

Caparo Engineering India Ltd. …Appellant(s)

Versus

Dileep Chouhan And Anr. …Respondent(s)

WITH

CIVIL APPEAL NOS.5841-5842 OF 2021

Caparo Engineering India Ltd. …Appellant(s)

Versus

Jugal Kishore And Anr. …Respondent(s)

WITH

CIVIL APPEAL NOS.5839-5840 OF 2021

Caparo Engineering India Ltd. …Appellant(s)

Versus

Parmeshwar And Anr. …Respondent(s)

WITH

CIVIL APPEAL NOS.5837-5838 OF 2021

M/s. Caparo Engineering India Ltd. …Appellant(s)

Versus

Makhanlal And Anr. …Respondent(s)

WITH

CIVIL APPEAL NOS.5835-5836 OF 2021

Caparo Engineering India Ltd. …Appellant(s)

Versus

Rajendra Prasad And Anr. …Respondent(s)

AND

CIVIL APPEAL NOS.5833-5834 OF 2021

M/s. Caparo Engineering India Ltd. …Appellant(s)

Versus

Surendra Singh Tomar And Anr. …Respondent(s)

J U D G M E N T

M.R. SHAH, J.

1. As common question of law and issues have been raised in this group of appeals, as such arising out of the impugned common judgment and order passed by the High Court, all these appeals are being decided and disposed of together by this common judgment and order.

2. Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court of Madhya Pradesh Bench at Indore in MP No.245 of 2019 and other allied petitions by which the High Court has dismissed the said petitions preferred by the appellant herein – employer (hereinafter referred to as “employer”) and has confirmed the respective judgment and award passed by the Labour Court, Dewas dated 13.11.2018 by which the Labour Court allowed the said reference in favour of the respondents - employees by declaring

their order of transfer dated 13.01.2015 as illegal and void, the employer has preferred the present appeals.

3. The brief facts in nutshell are as under:-

3.1 That the respective workmen were employed and working in the Dewas factory of the appellant. That vide order dated 13.01.2015, all of them came to be transferred to Chopanki, District Alwar, which is 900 Kms. away from Dewas. The respective workmen through their Union raised the industrial dispute before competent authority and on failure of the conciliation proceedings, a reference was made to the Labour Court. The following question was referred to the Labour Court:-

> "Whether the transfer of Shri Kanhaiyalal by the Non-Applicant is valid and proper? If not, then what relief can be granted to him and what directions need to be given to the employer in this respect?"

Similar dispute was referred with respect to the each workman.

3.2 The respective workmen filed their statement of claim before the Labour Court. It was the case on behalf of the workmen that the transfer was done malafidely with the intention to reduce the number of workmen in the Dewas factory; that the employer pressurized the workmen to resign and on refusal, the employer transferred them without any justifiable reason to Chopanki at Rajasthan, which is 900 Kms. away; such a transfer amounts to the illegal change under Section 9A of the Industrial Disputes Act, 1947 (hereinafter referred to as "I.D. Act"); that

all the family members and their relatives are residing at Dewas and the facilities which are available at Dewas are not available at Chopanki and at Chopanki within the radius of 40-50 Kms neither there is any residential area nor any means of transport are available; and that their services is also not required at Chopanki factory. It was also the case on behalf of the respective workmen that at Dewas precision pipes are manufactured whereas at Chopanki, the work of manufacturing of nut and bolt is done and the transfer will change the nature of work, therefore, it was prayed to declare the transfer as illegal and void.

3.3 The employer filed the reply to the statement of claim before the Labour Court. It was specifically denied that the transfer was done to reduce the number of workmen at Dewas. It was submitted that no unfair labour practice was adopted and compliance of Section 9A of the I.D. Act was not necessary. It was also denied that the workmen were pressurized to tender resignation. A plea was raised that since there was continuous reduction in production at Dewas and the staff had become surplus which was not required and, therefore, to continue the employment of the concerned workmen, they had been transferred as per their service conditions and no notice in this regard under Section 9A of the I.D. Act was required. It was also stated that at Chopanki factory, all the facilities are available.

3.4 Both the parties led the evidences. The workmen examined PW-1, Kanhaiya Lal and PW-2, Vijay Pratap Singh Ranawat in support of their case/plea and the employer examined DW-1 Manoj Thakkar, DW-2 Rajveer Singh and DW-3 Mukesh Kulshreshtha. Both the parties also brought on record the documentary evidences in support of their respective cases.

3.5 That on appreciation of evidences, the Labour Court specifically found that employer could not prove that there was continuous reduction of production at Dewas factory and that the staff had proportionately become surplus. The Labour Court also found that the workmen – nine in numbers were transferred from Dewas with the intention to reduce the number of persons employed at Dewas and such an act was covered by Clause 11 of Schedule 4 of the I.D. Act and since no notice of change was given, the transfer orders are in violation of Section 9A of the I.D. Act. The Labour Court also specifically found on appreciation of evidence that transfer will change the nature of work since the workmen were employed as labourers at Dewas and on transfer at Chopanki, they will be working as Supervisor. Consequently, the Labour Court found the order of transfer as null and void and consequently the Labour Court set aside the same.

3.6 Feeling aggrieved and dissatisfied with the judgment and award passed by the Labour Court, the employer – management preferred writ petitions under Article 227 of the Constitution of India before the High Court and by the impugned common judgment and order the High Court has dismissed the said writ petitions treating the said writ petitions under Article 227 of the Constitution of India. Feeling aggrieved and dissatisfied with the judgment and order passed by the learned Single Judge, the appellant preferred writ appeal/s before the Division Bench of the High Court and the Division Bench has dismissed the said appeal/s as not maintainable observing that the writ petition/s before the learned Single Judge was/were under Article 227 of the Constitution of India.

3.7 Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court dismissing the writ petitions and confirming the respective judgments and awards passed by the Labour Court declaring the order of transfer dated 13.01.2015 as illegal, null and void and in breach of the provisions of the I.D. Act, more particularly, Section 9A of the I.D. Act, the management/employer has preferred the present appeals. That the appellant has also challenged the order passed by the Division Bench dismissing the writ appeal/s as not maintainable.

4. Shri Jaideep Gupta, learned Senior Advocate has appeared on behalf of the appellant- employer and Shri Niraj Sharma, learned Advocate has appeared on behalf of the respective respondents – workmen.

4.1 Shri Gupta, learned Senior Advocate appearing on behalf of the management/employer has vehemently submitted that in the facts and circumstances of the case, the High Court has committed a grave error in treating the writ petitions under Article 227 of the Constitution of India. It is submitted that as such the awards were challenged by the management by way of writ petitions clearly under Article 226 of the Constitution.

4.2 It is submitted that even the prayer in the writ petitions was for an appropriate writ, direction or order to quash and set aside the respective awards. It is submitted that in fact initially "Article 226" was mentioned however, due to the objections raised by the Registry, the appellant was compelled to amend the writ petition and mention "under Article 227 of the Constitution". It is submitted that as such even subsequently, the appellant filed a writ appeal before the Division Bench of the High Court challenging the judgment and award passed by the learned Single Judge, however, the Division Bench dismissed the writ appeals as not maintainable treating the writ petitions before the learned Single Judge under Article 227 of the Constitution. It is submitted that as such the writ

petitions before the High Court were on the face of it petitions under Article 226 of the Constitution, even as can be seen from the material/averments made in the writ petitions.

4.3 Shri Gupta, learned Senior Advocate appearing on behalf of the employer has further submitted that in order to determine whether a petition is under Article 226 or under Article 227 of the Constitution, what is to be looked at is the nature of jurisdiction invoked and the relief sought therein. It is submitted that neither the provision cited in the cause title nor the provision mentioned by the learned Single Judge while exercising his power were determinative of the true nature of the application and order thereon. Heavy reliance is placed on the decision of this Court in the case of **Ashok K. Jha and Ors. Vs. Garden Silk Mills Limited and Anr., (2009) 10 SCC 584** (paragraphs 27 to 37).

4.4 It is submitted that as such in several subsequent judgments with reference to awards of Labour Courts, the petitions were held to be primarily under Article 226 and not under Article 227 and, therefore, amenable to the appellate jurisdiction of the Division Bench of High Court. In support of his above submission, he has relied upon the following decisions of the Madhya Pradesh High Court as well as of the Bombay High Court:-

Shaillendra Kumar Vs. Divisional Forest Officer and Anr. (2017) SCC Online MP 1514; Yogendra Singh Chouhan Vs.

Managing Director, Intas Pharmaceuticals Ltd. and Anr., WA No.46 of 2021; State of Madhya Pradesh and Anr. Vs. Patiram, WA No. 1932 of 2019 (2020 SCC Online MP 3660) and **Murari Lal Chhari and Ors. Vs. Munishwar Singh Tomar and Anr.** in **WA No.1191 of 2019 (2019 SCC Online MP 4559).**

4.5 It is submitted that as such by not treating/considering the writ petitions by the learned Single Judge under Article 226 of the Constitution, the valuable right available to the employer of appeal before the Division Bench has been taken away. Therefore, it is requested to remit the matter back to the Division Bench of the High Court to decide the writ appeals in accordance with law and on its own merits. It is further submitted that even on merits also both, the Labour Court as well as the High Court have erred in declaring the order of transfer as illegal and void and in violation of Section 9A of the I.D. Act.

4.6 It is submitted that the Labour Court as well as the learned Single Judge has materially erred in holding that order of transfer amounted to change of terms and conditions of service requiring a notice under Section 9A and in the absence thereof, the said order is liable to be set aside. It is submitted that as such an order of transfer does not bring about a change in the terms and conditions of service within the meaning of Section 9A read with Schedule 4 thereof. Heavy reliance is placed on the decision of the Madhya Pradesh High Court in the case of

President Vs. Director, Rajasthan Patrika Pvt. Ltd., WP No.12934 of 2015 (2015 (4) MPLJ 595).

4.7 It is further submitted that Clause 11 of Schedule 4 is not at all relevant when considering transfer orders. It is submitted that the purpose of the transfer order was not to bring about a reduction in the establishment in question. It is submitted that to bring a case within the change of terms and conditions of service within the meaning of Section 9A, it is necessary for the workmen to demonstrate that they have been adversely affected by the reduction. Reliance is placed on the decision of this Court in the case of **Hindustan Lever Ltd. Vs. Ram Mohan Ray and Ors., (1973) 4 SCC 141; Harmohinder Singh Vs. Kharga Canteen, Ambala Cantt., (2001) 5 SCC 540** and the decision of the Bombay High Court in the case of **Associated Cement Companies Ltd. Vs. Associated Cement Staff Union, 2009 SCC Online Bom 2132.**

4.8 It is further submitted on behalf of the employer that even otherwise the learned Single Judge has failed to take into account the contention that the employees are not workmen.

4.9 Making above submissions and relying upon the above decisions, it is prayed to allow the present appeals and quash and set aside the impugned judgments and orders passed by the Division Bench of the

High Court, learned Single Judge of the High Court and the respective judgments and awards passed by the Labour Court.

5. All these appeals are vehemently opposed by Shri Niraj Sharma, learned Advocate appearing on behalf of the respective workmen.

5.1 It is submitted by Shri Sharma, learned Advocate appearing on behalf of the respective workman that in the facts and circumstances of the case, no error has been committed by the learned Labour Court as well as the High Court in holding the order of transfer dated 13.01.2015 as illegal, invalid and in violation of the provisions of Section 9A of the Industrial Disputes Act read with Fourth Schedule.

5.2 It is submitted that the findings recorded by the learned Labour Court holding the order of transfer dated 13.01.2015 as illegal, arbitrary, mala fide and in violation of the provisions of Section 9A of the Industrial Disputes Act are on appreciation of evidence, which, the High Court has rightly not interfered with in exercise of the powers under Article 227 of the Constitution of India.

5.3 It is vehemently submitted by the learned Advocate appearing on behalf of the workmen that as such except 2-3 workmen, rest of the workmen were at the fag end of their service career and were transferred to Chopanki, which is at a distance of about 900 Kms. It is submitted that all the respective workman had put about 25 to 30 years of service at the time of their transfer and were at the fag end of their

service. It is submitted that even one of them has retired having attained the age of 60 years. It is submitted that the order of transfer dated 13.01.2015 transferring the respective workman form Dewas to Chopanki and that too at the fag end of their service career amounted to an arbitrary and unfair labour practice by creating a situation in which the workmen were left with no other option except to leave their employment. It is submitted that it was in fact a way to retrench the workmen without following the mandatory provisions of law. It is further submitted that even sudden transfer of the workmen to a different State and that too at a distance of about 900 Kms. from their place would cause great hardship as the place where they were transferred had no educational and medical facilities, their school going children and old aged parents were to be disturbed and uprooted and the place where they were transferred had no residential area within 40-50 Kms. form the plant with no means of transport.

5.4 It is submitted by Shri Sharma, learned Advocate on behalf of the workmen that in view of the above situation, the transfer amounted to victimization of the employees by forcing them to quit their jobs. It is further submitted that on appreciation of evidence on record, the learned Labour Court had rightly come to the conclusion that by transferring the respective workman to Chopanki would be in violation of Section 9A read with Fourth Schedule in as much as by transferring them to Chopanki

would change the nature of work without issuing any notice under Section 9A of the Industrial Disputes Act.

5.5 It is submitted that even DW-1, Manoj Thakkar had admitted in cross-examination that by transferring the respective workman from Dewas to Chopanki, number of workers at Dewas factory would be reduced. It is submitted that he has also admitted that a transferred workmen would work in the capacity of Supervisor at Chopanki. It is submitted that the respective workman was a workman at Dewas and as admitted by the employer's witness at Chopanki, after giving training they will have to work as supervisor. It is submitted that therefore transfer of the workmen would amount to depriving them of the beneficial provisions of the Industrial Disputes Act. It is submitted that once at the transferred place, they will work as a Supervisor, thereafter they will be out of the clutches of the Industrial Disputes Act and they will be deprived of the protection of the benevolent provisions under the Industrial Disputes Act. It is submitted that even the DW-2, Rajbir Singh has also stated in his evidence that the respondents are employed in the capacity of workmen while after transfer to Chopanki, they will be given training and shall be assigned the work of supervisor. The aforesaid would change the nature of work as stated hereinabove.

5.6 It is submitted that after analyzing the evidence on record, the relevant labour law and the judgments of the Supreme Court as well as

of the High Courts, the learned Labour Court has specifically held that since the service conditions of the workmen had been changed without issuing any notice under Section 9A of the Industrial Disputes Act, the order of transfer is illegal, arbitrary, mala fide and victimization, therefore, the same has been rightly set aside by the learned Labour Court and the same has been rightly confirmed by the High Court.

5.7 It is submitted that there are concurrent findings by the learned Labour Court as well as the High Court that the respondents were workmen for the purposes of the Industrial Disputes Act and, therefore, covered by the Industrial Disputes Act.

5.8 Now, so far as the submission on behalf of the appellant that the writ petition(s) before the learned Single Judge of the High Court in fact was under Article 226 of the Constitution of India and not under Article 227 and, therefore, the writ appeal would be maintainable, is concerned, it is submitted that in fact in the cause title, the appellants have stated that the writ petition is under Article 227 of the Constitution of India and all throughout their writ petition was under Article 227. It is submitted, therefore, that now, thereafter, it was not open for the appellant to contend that the petition(s) was/were under Article 226 and, therefore, the writ appeal would be maintainable. It is submitted that therefore both, the learned Single Judge as well as the Division Bench have rightly

held that the petition(s) was/were in fact under Article 227 and, therefore the writ appeal(s) was/were not maintainable.

5.9 It is further submitted by learned Advocate appearing on behalf of the workmen that as such the respondents-employees have not been paid salaries after the transfer order dated 13.01.2015 till date and it is very difficult for them to maintain themselves as well as their family members. Making above submissions it is prayed to dismiss the present appeals.

6. Heard the learned Advocates for the respective parties at length.

7. At the outset, it is required to be noted that as such there are concurrent findings of fact recorded by the learned Labour Court as well as learned Single Judge of the High Court that the order of transfer dated 13.01.2015 transferring the respective workman from Dewas to Chopanki was arbitrary, mala fide, amounted to victimization, unfair labour practice and in violation of Section 9A of the Industrial Disputes Act. On appreciation of evidence, more particularly, while considering the deposition of DW-1 Manoj Thakkar, the deposition of DW-2 Rajveer Singh and depositions of PW-1, Kanhaiya Lal and PW-2, Vijay Pratap Singh Ranawat, the learned Labour Court came to the following findings:-

(i) that the respective respondents-workmen were in the category of workman under Section 2(s) of the Industrial Disputes Act

and, therefore, they were entitled to the protection under the Industrial Disputes Act;

(ii) that by transferring them from Dewas to Chopanki, there would be change of work and, therefore, there would be change in the conditions of service and, therefore, the same is in violation of Section 9A read with Clause 11 of the Fourth Schedule of the Industrial Disputes Act ;

(iii) that by transferring the nine employees-workmen, there will be reduction of workmen at Dewas factory;

(iv) that at Dewas, the workmen were employed in the capacity of a workman and at Dewas the work of manufacturing precision pipes is done whereas at Chopanki manufacturing of nut and bolts is done.

7.1 The aforesaid findings by the learned Labour Court are on appreciation of evidence on record, which as such cannot be said to be perverse and/or contrary to the evidence on record. We have also minutely gone through the findings recorded by the learned Labour Court as well as the evidence on record. It emerge from the evidence on record that the respective respondents – employees were employed at Dewas and working at Dewas for more than 25 to 30 years; all of them came to be transferred suddenly from Dewas to Chopanki, which is at a distance of 900 Kms. from Dewas; they came to be transferred at the fag

end of their service career; that the place where they were transferred had no educational and medical facilities and that the place where they were transferred had no residential area within 40-50 Kms. from the plant with no means of transport.

7.2 It also emerges that the number of workers at Dewas factory has been reduced by nine by transferring the workmen to Chopanki. It also emerges that even as admitted by DW-1 and DW-2 the transferred workmen would work in the capacity of supervisor at Chopanki and after their transfer to Chopanki, they will be given training and assigned the work of supervisor.

7.3 As observed hereinabove and even the findings recorded by the learned Labour Court and even it also emerge from the evidence on record that at Dewas all of them were 'workmen' as defined in Section 2(s) of the Industrial Disputes Act and, therefore, would have a protection under the provisions of the Industrial Disputes Act and after their transfer to Chopanki, they will have to work in the capacity of supervisor and, therefore would be deprived of the beneficial provisions of the Industrial Disputes Act. Therefore, on such transfer from Dewas to Chopanki, the nature of service conditions and the nature of work would be changed, therefore, in such a case Section 9A read with Fourth Schedule would be attracted. Section 9A and the Fourth Schedule reads as under:-

"**9A. Notice of change.-** No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,-

(a) without giving to the workman likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within twenty-one days of giving such notice:

Provided that no notice shall be required for effecting any such change—

(a) where the change is effected in pursuance of any settlement or award; or

(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.

THE FOURTH SCHEDULE
(SEE SECTION 9A)

Conditions of Service for change of which Notice is to be given

1. Wages, including the period and mode of payment;

2. Contribution paid, or payable, by the employer to any provident fund or pension fund or for the benefit of the workmen under any law for the time being in force;

3. Compensatory and other allowances;

4. Hours of work and rest intervals;

5. Leave with wages and holidays;

6. Starting alteration or discontinuance of shift working otherwise than in accordance with standing orders;

7. Classification by grades;

8 Withdrawal of any customary concession or privilege or change in usage;

9. Introduction of new rules of discipline, or alteration of existing rules, except in so far as they are provided in standing orders;

10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workmen;

11. Any increases or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift, not occasioned by circumstances over which the employer has no control."

7.4 In view of the above and from the findings recorded by the learned Labour Court on the appreciation of evidence on record, it is rightly held that the order of transfer dated 13.01.2015 transferring the respective workman from Dewas to Chopanki, which is at about 900 Kms. away is in violation of Section 9A read with Fourth Schedule of the Industrial Disputes Act and is arbitrary, mala fide and victimization. As observed above, by such transfer, their status as "workman" would be changed to that of "supervisor". By such a change after their transfer to Chopanki and after they work as supervisor they will be deprived of the beneficial

provisions of the Industrial Disputes Act and, therefore, the nature of service conditions/service would be changed.

7.5 Even from the judgment and award passed by the learned Labour Court as well as the impugned judgment and order passed by the learned Single Judge, it can be seen that the appellant/employer has failed to justify the transfer of nine employees from Dewas to Chopanki, which is at a distance of 900 Kms. and that too at the fag end of their service career. Every aspect has been dealt with and considered in detail by the learned Labour Court as well as by the learned Single Judge of the High Court.

7.6 Now, so far as the submission on behalf of the appellant that the respective workmen – employees were not 'workmen' and, therefore, the reference to the learned Labour Court was not maintainable, has no substance at all. There are concurrent findings recorded by the learned Labour Court as well as the learned Single Judge that the concerned employees were 'workmen' within the definition of Section 2(s) of the Industrial Disputes Act. From the depositions of the witnesses, PW-1, PW-2, DW-1 and DW-2, it is established and proved that the concerned employees were 'workmen' and that after their transfer to Chopanki, they will be given training and they will work as a supervisor.

7.7 At this stage, it is required to be noted that after the conciliation had failed, the dispute, which was referred to the learned Labour Court

was “whether the transfer is valid and proper?” The dispute that the concerned employee is a ‘workman’ or not was not even referred to the learned Labour Court. Even no such issue was framed by the learned Labour Court. Be that it may, as observed hereinabove, it has been established and proved that the concerned employees were ‘workmen’ within the definition of Section 2(s) of the Industrial Disputes Act and, therefore, were entitled to the protection under the provisions of the Industrial Disputes Act.

7.8 Now, so far as the submission on behalf of the appellant that so far as the transfer is concerned, it is part of the service conditions and therefore Section 9A shall not be applicable is concerned, the same has no substance. The question is not about the transfer only, the question is about the consequences of transfer. In the present case, the nature of work/service conditions would be changed and the consequences of transfer would result in the change of service conditions and the reduction of employees at Dewas factory, for which the Fourth Schedule and Section 9A shall be attracted.

7.9 Now, so far as the submission on behalf of the appellant that the learned Single Judge of the High Court wrongly treated the petition(s) under Article 227 and as such the learned Single Judge ought to have treated the petition(s) under Article 226, therefore, the writ appeal before the learned Single Judge would have been maintainable, is concerned,

at the outset, it is required to be noted that before the learned Single Judge in the cause title specifically Article 227 has been mentioned. Even in prayer clause, no writ of certiorari is sought. The prayer is simply to quash and set aside the judgment and award passed by the learned Labour Court and, therefore, in the fact situation, the Division Bench has rightly dismissed the writ appeal as not maintainable. Be that it may, even for the sake of submission, assuming that we accept the submission that the petition before the learned Single Judge ought to have been treated as under Article 226 and writ appeal would have been maintainable, in the facts and circumstances of the case and instead of remanding the matter to the Division Bench to decide the same afresh, we, ourselves, have decided the entire controversy/issues on merits considering the fact that the order of transfer is of 2015 and that most of the employees have by now retired or they are about to retire on attaining the age of superannuation and that it is stated that they are not paid the salaries since 2015. Therefore, we, ourselves, have decided the entire issues on merits.

8. In view of the above and for the reasons stated above, we see no reason to interfere with the impugned judgment and award passed by the learned Labour Court confirmed by the learned Single Judge of the High Court. We are in complete agreement with the view taken by the learned Labour Court as well as the learned Single Judge holding the

order of transfer dated 13.01.2015 transferring the respective workman from Dewas to Chopanki, which is at about 900 Kms. from the place they were working as illegal, mala fide and in violation of Section 9A read with Fourth Schedule of the Industrial Disputes Act.

8.1 Consequently, all these appeals deserve to be dismissed and are accordingly dismissed. The appellant is directed to comply with the judgment and award passed by the learned Labour Court confirmed by the learned Single Judge of the High Court. All the concerned workmen shall be entitled to the consequential benefits including the arrears of salary etc., as if they were not transferred from Dewas and continued to work at Dewas and whatever benefits, which may be available to the respective workmen including the arrears of salary/wages, retirement benefits etc. shall be paid to the concerned workman within a period of four weeks from today.

All these appeals are accordingly dismissed with costs, which is quantified at Rs.25,000/- qua each workman also to be paid to the concerned workman within a period of four weeks from today.

……J.
[M.R. SHAH]

NEW DELHI;
OCTOBER 26, 2021.

……J.
[A.S. BOPANNA]