THE PATNA ELECTRIC SUPPLY CO., LTD., PATNA

v.

THE PATNA ELECTRIC SUPPLY WORKERS' UNION

1959

April 23.

(B. P. SINHA, P. B. GAJENDRAGADKAR and K. N. WANCHOO, JJ.)

Industrial Dispute—Housing facilities for industrial labour—Award based on Bihar Government Scheme—Validity.

One of the items in dispute referred to the Industrial Tribunal for adjudication, which was the subject matter of this appeal, related to the demand of the Workers' Union that the appellant company must provide quarters to its employees in terms of the Bihar Government Scheme and undertake immediate construction for that purpose. The case of the Company was that the State and not the employer was primarily responsible for providing quarters to the employees and, in any event, it was not financially possible for the appellant to undertake the task. The Tribunal upheld the Union's claim and directed the company to start construction of at least 15 quarters, as specified by the Government scheme, within a year. The Labour Appellate Tribunal, on appeal, held that the Government scheme was binding on the company and upheld the award.

The scheme, on which the award was based, was one prepared by the Industrial Housing sub-Committee appointed by the Government of Bihar and sanctioned by the Government as recommended by the Bihar Central (Standing) Labour Advisory Board. It imposed on the employers the responsibility for housing industrial labour and provided for financial assistance to the employers by the State Government to the extent of 50% of the capital required, by way of loan repayable in 25 annual instalments, recoverable, on default, from the properties mortgaged for the loan or the assets of the debtor. The scheme prescribed the terms on which the quarters were to be let out to the employees and specified their size.

It was contended on behalf of the appellant that, the scheme was not obligatory and could not impose a term of employment for the workmen. For the Union it was argued that the scheme had materially altered the rule, followed by industrial adjudication in such cases, so far as the State of Bihar was concerned and had imposed a moral obligation on the appellant. Neither the Industrial Tribunal nor the Labour Appellate Tribunal in appeal, took the financial position of the company into consideration where they held that the Scheme did impose a

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moral obligation on the appellant to provide quarters for its employees, which was enforceable in industrial adjudication.

Held, that the scheme sanctioned by the Bihar Government was merely of a recommendatory nature and since it had no statutory force it could not provide a basis for the direction made by the award. Its language showed that it was vague and not intended to be acted upon and so it could not have the effect of introducing a term of employment as between the employer and the workmen.

Although there could be no doubt that, Industrial Tribunals had generally the power and jurisdiction, apart from any scheme or agreement between the parties, in appropriate cases, to impose new obligations on the employers in the interest of social justice and for securing peace and co-operation between the employer and the workmen, the award in appeal could not be justified on the merits under the prevailing condition of the industrial evolution in the country.

Western India Automobile Association v. *The Industrial Tribunal, Bombay*, A.I.R. 1949 F.C. 111, *The Bharat Bank Ltd., Delhi* v. *The Employees of the Bharat Bank Ltd., Delhi*, [1950] S.C.R. 459 and *Rohtas Industries Ltd.* v. *Brijnandan Pandey*, [1956] S.C.R. 800, referred to.

It was the duty of Industrial Tribunals to take into consideration the interests of national economy and progress and they were entirely right in taking the view, which they had consistently done, that it would be inexpedient in the present financial condition of the industries in the country to impose the additional burden of providing housing facilities on them which should be the primary responsibility of the State.

Eastern Plywood Manufacturing Co., Ltd. v. *Their Workers*, [1949] L.L.J. 291, *Mohomad Rai Akbarali Khan* v. *The Associated Cement Companies Ltd.*, [1953] L.A.C. 677, *Samastipur Central Sugar Co., Ltd.* v. *Their Workmen*, [1955] 2 L.L.J. 727 and *M/s. National Carbon Co. (India) Ltd.* v. *National Carbon Co. Mazdoor Union, Calcutta*, [1956] L.A.C. 660, approved.

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 227 of 1958.

Appeal by special leave from the judgment and order dated January 31, 1956, of the Labour Appellate Tribunal of India, Calcutta, in Appeals Nos. Cal. 36 and 38 of 1953.

M. C. Setalvad, Attorney-General for India and *Naunit Lal*, for the appellant.

P. K. Chatterjee, for the respondents.

1959. April 23. The Judgment of the Court was delivered by

GAJENDRAGADKAR, J.—This appeal by special leave arises out of an industrial dispute between the Patna Electric Supply Co., Ltd., (hereafter called the appellant) and its workmen represented by the Patna Electric Supply Workers' Union (hereafter called the respondent). The appellant is a public company incorporated under the Indian Companies Act and has its registered office at Patna. It is an industrial establishment engaged solely in public utility service, namely, the supply of electricity for the requirements of the public and is a licensee under the provisions of the Electric Supply Act, 1948 (54 of 1948). On March 29, 1952, the Government of Bihar, by a notification issued under s. 7 read with s. 10(1) of the Industrial Disputes Act, 1947 (14 of 1947) (hereafter called the Act) referred twelve items of dispute for adjudication to the Industrial Tribunal consisting of Mr. H. K. Chaudhuri as the sole member. Out of the said items the present appeal is concerned with only one; and it relates to "the housing facilities to the workmen and principle of allotment of quarters to them". The respondent had put forward a demand that the appellant should provide houses to its employees and should undertake the construction of quarters immediately in that behalf. The respondent's case was that the appellant was bound to provide quarters to its employees and let out the same to them according to the Bihar Government scheme. The appellant denied its liability to make any housing provision for its employees and that gave rise to the industrial dispute.

The appellant urged before the tribunal that the housing facilities and allotment of quarters to workmen was the primary responsibility of the State and not of the employer; and it alleged that in any event it was financially not possible for the appellant to undertake the task. The appellant had also contended that it had to function within the limits prescribed by the Electricity Supply Act, 1948, and that the relevant provisions of the said Act would not permit the appellant to undertake any expenditure to meet the respondent's demand.

On March 9, 1953, the tribunal upheld the respondent's claim and by its award it directed the appellant

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to start construction of at least 15 quarters according to the specifications laid down in the Government scheme within one year from the date of the publication of the award.

This part of the award was challenged by the appellant before the Labour Appellate Tribunal; but the appellate tribunal was not impressed by the appellant's pleas and so it dismissed the appeal on January 31, 1956. It agreed with the tribunal in holding that the scheme sanctioned by the Bihar Government was binding on the appellant and it saw no substance in the appellant's contention that expenditure involved in the construction of the quarters would be inadmissible under the Electricity Act.

The appellant then applied for, and obtained, special leave from this Court on September 17, 1956. That is how this appeal has come to this Court, and the only question which it raises for our decision is whether the direction issued by the award calling upon the appellant to start the construction of at least 15 quarters is justified or not.

It is true that the appellant has provided housing facilities for some members of its staff. It appears that 17 employees out of 183 in the Power Station, 146 out of 329 in the Mains Department, and 1 out of 58 in the General Department have been provided by the appellant with free quarters, whereas one employee in the Mains Department is granted house allowance at 12½% in lieu of a house. But this arrangement is a matter of the appellant's choice and volition; and it cannot be made an obligation and thus virtually a term of employment; that is the appellant's case.

On the other hand, the respondent's contention is that the Bihar Government scheme of industrial housing has now been finalised and it imposes upon the appellant an obligation to provide housing facilities for all its employees. It is not seriously disputed by the respondent that the industrial adjudication has so far consistently held that providing housing facilities for industrial labour is the primary responsibility of the State; but the argument is that the scheme formulated by the Industrial Housing Sub-Committee in

Bihar has materially altered the position so far as the State of Bihar is concerned. It is this argument which has been accepted by the tribunals below. They have held that the scheme sanctioned by the Bihar Government on the recommendation of the Industrial Housing Sub-Committee, though recommendatory in character, imposes a moral obligation on the employer to provide housing for his employees, and in industrial adjudication this moral obligation can be enforced against it. It is this conclusion which must first be examined.

It appears that in March 1938 the Government of Bihar had set up a Committee known as the Bihar Labour Enquiry Committee under the Chairmanship of Dr. Rajendra Prasad for the purpose of enquiring into the conditions of industrial labour in the State and for making such recommendations as might appear practicable with the object of improving the level of wages and conditions of work of industrial workers. This Committee submitted its report to Government in April 1940. It had suggested that housing on an adequate scale should be made a statutory obligation of the employer but the extent to which the industry could be required to fulfil such an obligation should be determined by the State Government after careful investigation into its financial condition. No action was, however, taken on this recommendation by the State Government.

Subsequently the Bihar Government appointed the Industrial Housing Sub-Committee on the recommendation of the Bihar Central (Standing) Labour Advisory Board and this Sub-Committee submitted its report on December 16, 1948, recommending the setting up of an industrial housing board for formulating certain schemes for housing industrial workers. The matter was then considered by the Bihar Central (Standing) Labour Advisory Board on February 11, 1950, and the Board asked the Industrial Housing Sub-Committee to re-examine the question further and make specific recommendations. Accordingly the Sub-Committee reconsidered the matter and made its final recommendations on August 17, 1950. These recommendations were considered by the Bihar Central

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(Standing) Labour Advisory Board in September 1950 and they were adopted by it with slight modifications. This scheme was finally sanctioned by the State Government.

Under this scheme the responsibility for housing industrial labour is placed on the shoulders of the employers. To begin with the scheme was intended to be applicable only to factories registered under Factories Act, 1948. It provides for financial assistance by State Government to the employer on terms and conditions specified in it. It appears that under para. 4 of the scheme the State Government may give loan to the employer to the extent of 50% of the capital required for industrial housing and that the loan would carry interest at 3% per annum. The remaining 50% of the capital is to be provided for by the employer. The amount granted as a loan together with interest thereon has to be repaid by the employer in 25 annual instalments of equal amount on the dates fixed for such repayment. There is also a default clause which enables the State Government to recover the amount due from the properties mortgaged to the State Government for the loan or from other assets of the borrower. The scheme prescribes the terms on which the quarters when built should be let out to the employees and it lays down the standard size and other specifications of the quarters. The respondent's contention is that since this scheme has been sanctioned by the State Government it imposes on the employers in the State of Bihar a moral obligation to implement it and industrial adjudication can give effect to the scheme by issuing appropriate directions by their awards; this contention has been accepted by the tribunals below.

We do not think that the scheme in question can justify the direction issued by the award under appeal. It is clear that though the original Bihar Labour Enquiry Committee had recommended to the State Government that housing on an adequate scale should be made a statutory obligation of the employer, the State Government has so far taken no action on this recommendation. It is common ground that the State

Legislature has passed no legislation imposing statutory obligation on the employer to provide for housing on an adequate scale to his employees. The scheme in question on which the respondent relies has no statutory force. It merely approves of the recommendations made by the Bihar Central (Standing) Labour Advisory Board and the only liability which the State Government has purported to undertake by sanctioning the scheme is to agree to afford partial financial assistance to the employers on the terms and conditions specified in it. In other words, if any industrial employer wants to provide housing facilities for his employees he may be able to ask for financial assistance from the State Government and the State Government may afford such assistance under the scheme; but that is a very different matter. It may be conceded that in a large majority of cases industrial labour is very badly in need of housing accommodation, and it would, therefore, be desirable that such facilities should be afforded to labour either by the State or if possible by the employer or by both of them acting together in co-operation; but we do not see how the present scheme which no doubt is laudable in its object can afford any valid basis for issuing directions against the appellant calling upon it to construct quarters for its workmen as the award purports to do.

It appears that both the tribunals assumed that the scheme in question had been adopted with the consent of the appellant and as such the appellant was bound by it. This assumption is clearly unjustified. No partner of the appellant was a member of the Committee and Mr. Chandra, the appellant's Labour Adviser was not its member in 1950 but became one in 1952. Mr. Chandra is a Labour Adviser of other companies as well and so it would be difficult to accept the argument that even after he became a member in 1952 he could represent the appellant in the legal sense so as to bind it by his consent; but apart from this aspect of the matter, even Mr. Chandra was not a member in 1950 when the scheme was adopted. It is true that some representatives of industrial employers were nominated by the State Government as members

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of the Committee; but that would not justify the assumption that the scheme adopted by the Committee and sanctioned by the Government is binding on the appellant. It is significant that even the scheme lays down that providing housing accommodation to the lowest paid workers is *mainly* the responsibility of the employers and that the State Government could only help the employers by giving them aid in the form of loan and in the matter of acquisition of land. The scheme is thus merely recommendatory and the use of the word " mainly " shows that it is vague and cannot be, and was not expected to be, enforced as it stands. It is clear that tribunals cannot call upon the Government to advance a loan to the employers whenever they pass awards calling upon the employers to start the construction of quarters for their employees; so that if Government takes time to sanction the required loan, or, owing to its own difficulties, it is unable to sanction it, the employer would be exposed to the risk of the penalties arising out of his failure to comply with the award; and that only serves to emphasise that the problem must be tackled by the employers and the State in co-operation with each other and cannot *at present at least* be treated as a subject-matter of an award. We are, therefore, satisfied that the scheme in question which is the sole basis for the award cannot have the effect of introducing a term of employment between the appellant and its workmen in regard to housing facilities.

We may incidentally point out that if the present award is upheld it would give rise to similar demands from employees in other allied or similar industries in Bihar; and if such demands are upheld it would inevitably impose a very large burden on the employers and that may materially affect the industrial progress of the State of Bihar. It is necessary to emphasise that, in considering the claims of workmen sympathetically on the ground of social and economic justice, industrial adjudication has to bear in mind the interests of national economy and progress which are relevant and material. We must, therefore, hold that the award under appeal cannot be sustained on the

basis of the scheme sanctioned by the Bihar Government.

It has, however, been urged before us on behalf of the respondent that, apart from the scheme, the industrial tribunal has jurisdiction to make an award calling upon the appellant to provide housing accommodation for its employees. The argument is that, unlike commercial arbitration, industrial arbitration may, and often does, involve the making of a new contract or the imposition of new obligations on the employer in the interests of social justice; and having regard to the fact that the employees are very badly in need of housing accommodation it was open to the tribunal in the present case to have directed the appellant to make a beginning in that direction by providing housing accommodation to some of its employees. In support of this argument the respondent has relied upon the oft-quoted observation of Ludwig Teller that "Industrial arbitration may involve the extension of an existing agreement or the making of a new one, or, in general, the creation of new obligations or modification of old ones while commercial arbitration generally concerns itself with interpretation of existing obligations and disputes relating to existing agreements "(1). There is no doubt that in appropriate cases industrial adjudication may impose new obligations on the employer in the interest of social justice and with the object of securing peace and harmony between the employer and his workmen and full co-operation between them. This view about the jurisdiction and power of the industrial tribunals has been consistently recognised in this country since the decision of the Federal Court in *Western India Automobile Association* v. *The Industrial Tribunal, Bombay* (2). In that case the employer had challenged the jurisdiction of the industrial tribunal to direct the reinstatement of his employees; and it was urged that such a direction was contrary to the known principles which govern the

(1) Ludwig Teller's "Labour Disputes & Collective Bargaining", Vol. 1, p. 536.

(2) A.I.R. 1949 F.C. 111, 120.

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relationship between master and servant and was outside the jurisdiction of the tribunal. This contention was negatived by the Federal Court, and it was observed that industrial adjudication does not mean adjudication according to the strict law of master and servant. "The award of the tribunal", observed Mahajan, J., in delivering the judgment of the Court, "may contain provisions for the settlement of a dispute which no Court could order if it was bound by ordinary law, but the tribunal is not fettered in any way by these limitations". The same view has been more emphatically expressed by Mukherjea, J., in *The Bharat Bank Ltd., Delhi* v. *The Employees of the Bharat Bank Ltd., Delhi* (1). "In settling the disputes between the employers and the workmen", observed the learned Judge, "the function of the tribunal is not confined to administration of justice in accordance with law. It can confer rights and privileges on either party which it considers reasonable and proper, though they may not be within the terms of any existing agreement. It has not merely to interpret or to give effect to the contractual rights and obligations of the parties. It can create new rights and obligations between them which it considers essential for keeping industrial peace". In *Rohtas Industries Ltd.* v. *Brijnandan Pandey* (2), Mr. Justice S. K. Das has expressed the same conclusion when he observed that "a court of law proceeds on the footing that no power exists in the courts to make contracts for people; and the parties must make their own contracts. The courts reach their limit of power when they enforce contracts which the parties have made. An Industrial Tribunal is not so fettered and may create new obligations or modify contracts in the interests of industrial peace, to protect legitimate trade union activities and to prevent unfair practice or victimisation". Thus there can be no doubt that an industrial tribunal has jurisdiction to make a proper and a reasonable order in any industrial dispute; and in that sense the respondent may be right when it contends that it was within the competence of the tribunals below to entertain its

(1) [1956] S C.R. 459, 513. (2) [1956] S.C.R. 800, 810.

grievance about housing accommodation and to give it appropriate relief in that behalf.

But assuming that the tribunal had jurisdiction to entertain the dispute, the question still remains whether, apart from the agreement on which the tribunals have based their decision, the award under appeal can be justified on general grounds. In our opinion, under the present conditions the answer to this question has to be in favour of the appellant and against the respondent. Industrial tribunals have consistently taken the view that housing accommodation of industrial labour is the primary responsibility of the State; and there has also been no difference of opinion on the point that in the present economic condition of our industries it would be inexpedient to impose on the employers the obligation to provide housing accommodation for their employees. Besides a scheme of wages properly fixed necessarily takes into account house rent amongst other relevant facts; and under a proper scheme of dearness allowance adjustments can be made when necessary from time to time so as to take into account an appreciable rise in the rents which industrial labour may have to pay. That is why usually tribunals do not entertain employees' claim for housing and do not even allow a separate demand for house allowance as such. This position is not disputed before us by the respondent.

We may, however, refer to a few typical decisions of the Industrial Tribunals on this point. In *Eastern Plywood Manufacturing Co., Ltd., And Their Workers* (1) the Industrial Tribunal rejected the workmen's claim for housing accommodation or in the alternative for house rent allowance of Rs. 10 per month on the ground that the obligation for housing labour in an urban area is not really on the employer, and that the tribunal had already considered in the issues on basic pay and dearness allowance as to how much the company should be directed to pay in emoluments to its workmen. The tribunal thought that it would not be reasonable to saddle the company with any further financial commitments in the shape of house rent allowance.

(1) [1949] L.L.J. 291.

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In *Mahomad Rai Akbarali Khan* v. *The Associated Cement Companies Ltd.* (1), the Labour Appellate Tribunal has considered this problem. It was urged by the employees before the appellate tribunal that the employers should either provide quarters or pay house rent allowance, whereas the company contended that it was not the function of the management to provide accommodation for its employees. The appellate tribunal, however, took the view that the employers' contention should be accepted subject to considerable qualifications in certain cases; and it proceeded to consider the special features of the problem presented by the employers' factory at Sevalia. Sevalia was a village until the employer went there to start its factory which needed the services of a large contingent of workers. "When an industrial concern like this", observed the appellate tribunal, "bursts upon a rural area there is a very considerable impact on its economy. The inhabitants nearby join the factory as well as those living further away; there is also an influx of persons from outside; in short it means that accommodation becomes scarce and expensive; and if a workman has to go further afield for his accommodation he is put to considerable physical fatigue and inconvenience. In such circumstances it has not been the policy of the tribunals to ignore a claim for house rent allowance". After making these observations, the appellate tribunal proceeded to readjust the dearness allowance payable to the employees after taking into account the increased house rent which they had to pay for their housing accommodation in Sevalia; and having thus readjusted the dearness allowance the appellate tribunal held that no separate order as to house rent allowance was necessary. It appears that in that case the industrial tribunal had taken the view that the problem was not likely to be solved by granting house rent allowance to the employees and that the only practical course, therefore, was that the company should either help the workers in building their houses or that the company itself should construct quarters. That is why it had rejected the

(1) [1953] L.A.C. 677.

employees' demand for house rent allowance but had recommended to the concern to undertake building operations. The Labour Appellate Tribunal reversed this conclusion and took a more practical and a wiser course by readjusting the dearness allowance so as to grant adequate relief to the employees in that behalf. It would thus be seen that even where the employer had started its factory at a small village like Sevalia the appellate tribunal did not accept the employees' demand for housing accommodation and did not also think it proper to ask the employer to pay to its employees any separate special house rent allowance.

In *Samastipur Central Sugar Co., Ltd., And Their Workmen* (1) the Labour Appellate Tribunal had occasion to consider this question once again. In dealing with the merits of the problem, it accepted the decision of the Appellate Tribunal in *Mahomad Rai Akbarali Khan* v. *The Associated Cement Co. Ltd.* (2), and observed that "where the basic wage and dearness allowance are consolidated, house rent at the normal time and the subsequent rise must be presumed to have been taken into account when the total consolidated amount was fixed".

The same view was taken by the Labour Appellate Tribunal in *Messrs. National Carbon Co. (India) Ltd.* v. *National Carbon Co., Mazdoor Union, Calcutta* (3). In that case the tribunal had directed the employer to pay his workmen house rent allowance because it had taken the view that in making the said order it was granting a relief lesser than granting free quarters which the employees had claimed and that the lesser was involved in the greater relief and could be granted by it. On the evidence adduced in the said proceedings the Labour Appellate Tribunal did not agree with this view. It held that "provision for free quarters by constructing houses cannot permit of comparison with payment of house rent allowance in money month after month to determine which is greater and which is smaller than the relief of providing free quarters". On this view the Labour

(1) [1955] II L.L.J. 727, 730. (2) [1953] L.A C. 677.
(3) [1956] L.A.C. 660.

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Appellate Tribunal came to the conclusion that the tribunal had no jurisdiction to award house rent allowance when the dispute referred to it for adjudication was about free quarters.

It is thus clear that industrial tribunals have consistently refused to entertain a claim for housing accommodation or for the grant of a special and separate housing allowance against their employers. That is why in making the award under appeal the tribunals below were at pains to emphasise the fact that the scheme sanctioned by the Bihar Government made the position substantially different so far as Bihar was concerned.

The problem of housing industrial labour has been the subject-matter of some legislative enactments. As regards the workers employed in Plantations, the Plantations Labour Act, 1951 (69 of 1951), provides that it shall be the duty of every employer to construct and maintain for every worker and his family residing in the plantation necessary housing accommodation subject to the other provisions of the Act. Housing Boards have also been established in different States to tackle the larger problem of housing in general. The Bombay Housing Board Act, 1948 (Bom. 69 of 1948), the Mysore Labour Housing Act, 1949 (Mys. 28 of 1949), the Madhya Pradesh Housing Board Act, 1950 (Madhya Pradesh 43 of 1950), the Hyderabad Labour Housing Act, 1952 (Hyd. 36 of 1952), the Saurashtra Housing Act, 1954 (Saurashtra 32 of 1954) and the U. P. Industrial Housing Act, 1955 (U. P. 32 of 1955), are attempts made by the respective States to meet their responsibility in the matter of providing housing accommodation to its citizens in general and to industrial labour in particular.

This problem appears to have been considered by the Planning Commission in its report on the Second Five Year Plan. Chapter 26 of the report deals with the general problem of housing and ch. 27 deals with labour policy and programmes. The discussion of the problem in these two chapters shows that housing shortage can be conquered only by sustained and well

planned efforts made by the States and the industry together. It is a very big problem and involves the expenditure of a huge amount. Efforts are being made by the Central Government to invite the co-operation of industrial employers to tackle this problem with the progressively increasing financial and other assistance offered by the State Governments. But it is obvious that this problem cannot at present be tackled in isolation by industrial tribunals in dealing with housing demands made by employees in individual cases. In the present economic condition of our industries it would be inexpedient to impose this additional burden on the employers. Such an imposition may retard the progress of our industrial development and production and thereby prejudicially affect the national economy. Besides such an imposition on the employers would ultimately be passed by them to the consumers and that may result in an increase in prices which is not desirable from a national point of view. It is true that the concept of social justice is not static and may expand with the growth and prosperity of our industries and a rise in our production and national income; but so far as the present state of our national economy, and the general financial condition of our industry are concerned it would be undesirable to think of introducing such an obligation on the employers today. That is why we think the industrial tribunals have very wisely refused to entertain pleas for housing accommodation made by workmen from time to time against their employers.

In the present case it is clear that the question about the financial ability of the appellant to meet the additional burden imposed by the award has not been considered at all. In fact the Tribunals below seem to have taken the view that since the appellant is bound by the scheme it is immaterial, if not irrelevant, to enquire whether the appellant would be able to meet the expenses involved in the construction of quarters as directed by the award. It is obvious that such a view proceeds on purely theoretical considerations which have no relation to existing facts in regard to the financial position of the industry or the state of

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national economy. In fairness to the Tribunals we ought to add that if the tribunals had not taken an erroneous view about the effect of the scheme sanctioned by the Bihar Government they would not have granted the demand made by the respondent for housing accommodation. Since we hold that on the merits the award cannot be sustained we do not think it is necessary to consider whether the expenditure involved in the construction of quarters would be admissible under the relevant provisions of the Electricity Act.

The result is the appeal succeeds and the award under appeal is set aside. In the circumstances of this case we think it would be fair that the parties should bear their own costs.

Appeal allowed.

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DIN DAYAL SHARMA

v.

THE STATE OF UTTAR PRADESH

(JAFER IMAM and J. L. KAPUR, JJ.)

Criminal Trial—Bribery and criminal misconduct—Accused committed to Court of Session—Law amended making such cases triable by Special Judge—Sessions Judge, if has jurisdiction to continue trial—Investigation by officer below Deputy Superintendent of Police—Whether trial vitiated—Prevention of Corruption Act, 1947 (II of 1947), s. 5-A—Criminal Law (Amendment) Act, 1952 (46 of 1952), s. 10.

The appellant was committed to the Court of Session for trial of offences under s. 5(2) Prevention of Corruption Act, 1947 and s. 161 Indian Penal Code. Shortly thereafter, the Criminal Law (Amendment) Act, 1952 came into force. An Assistant Sessions Judge tried the appellant and convicted him of the offences charged. The appellant contended that the trial was vitiated as the investigation had been made by a police officer below the rank of Deputy Superintendent of Police and that the Assistant Sessions Judge had no jurisdiction to try the case as it was triable by a Special Judge.

Held that, the Assistant Sessions Judge had jurisdiction to