THE HIGH COURT OF MADHYA PRADESH
PRINCIPAL SEAT AT JABALPUR

W.P. No.1442/2020

UltraTech Cement Ltd. **Vs.** Siya Sharan Pandey

W.P. No.3233/2020

UltraTech Cement Ltd. **Vs.** Durga Prasad Dwivedi

W.P. No.3235/2020

UltraTech Cement Ltd. **Vs.** Lalman Pandey

W.P. No.3348/2020

UltraTech Cement Ltd. **Vs.** Jwala Prasad Patel

W.P. No.3352/2020

UltraTech Cement Ltd. **Vs.** Sapan Kumar Bose

W.P. No.4160/2020

UltraTech Cement Ltd. **Vs.** Brijkishore Garg

W.P. No.4162/2020

UltraTech Cement Ltd. **Vs.** Jairam Gautam

W.P. No.4573/2020

UltraTech Cement Ltd. **Vs.** Praveen Shukla

W.P. No.4596/2020

UltraTech Cement Ltd. **Vs.** Jageshwar Prasad Sondhiya

and

W.P. No.4938/2020

UltraTech Cement Ltd. **Vs.** Ram Prakash Mishra

Date of Order	08.06.2021
Bench Constituted	Single Bench
Order delivered by	Hon'ble Shri Justice Sanjay Dwivedi, J.
Whether approved for reporting	**YES**
Name of counsels for the parties	For Petitioner : Shri Aditya Adhikari, Senior Advocate with Shri Deepak Tiwari, Advocate.

	For respondent : Shri Sanjay Verma, Advocate.
Law laid down	The cement industry is a controlled industry and is Controlled by the Central Government but the State Government is also an “appropriate Government” and can refer the dispute of an employee working in the said industry except in the case of mines and quarries forming part of the cement industry where the Central Government alone has jurisdiction.
Significant Para Nos.	14 to 18

Reserved on : 11.02.2021
Delivered on : 08.06.2021

(O R D E R)

Since this batch of petitions is involving same question, therefore, it is analogously heard.

For the purpose of convenience, the facts of W.P. No.1442/2020 are being taken up. All the petitions are listed for final hearing in motion stage in pursuance to the order dated 18.01.2021, accordingly, parties are ready to argue the matter finally and it is finally heard.

A petition has been filed under Article 226 of the Constitution of India questioning the validity of the order dated 30.09.2019 (Annexure-P/13) passed in Case No.64/18 IDR by Labour Court, Satna deciding reference made to it by the office of Labour Commissioner, Indore, as the dispute was raised

under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act, 1947'). The question of reference was

"as to whether Siya Sharan Pandey s/o Ram Milan Pandey has been retired from service prior to the prescribed age of superannuation? If yes, then whether the order of superannuation is legal and appropriate? If not, then what benefit can be granted to the workman superannuated and what direction should be given to the employer in this regard?"

2. The reference was answered by the Labour Court after framing as many as three issues holding that the order of superannuation of the applicant (respondent herein) dated 26.10.2015 retiring him w.e.f. 31.01.2016 was illegal and unjustified and as such, the same was set aside and direction was issued to the employer (present petitioner) to allow the respondent to be continued in service till the age of 60 years and further directed that he be also paid back wages at the rate of 50% from the date when he superannuated from service till the date of order.

3. The factual matrix of the case relevant for considering the question raised may be thus;

(3.1) The respondent had worked in the petitioner's

organisation w.e.f. 01.01.1996 till 31.01.2016. His last drawn pay was Rs.24,426/-. He was retired after attaining the age of 58 years. As per the applicant (respondent herein) his superannuation was contrary to the amendment made by the State of Madhya Pradesh, published in State Gazette on 28.06.2014 enhancing the age of superannuation from 58 to 60 years, as such, retiring him w.e.f. 31.01.2016 was illegal as the age of superannuation has already been determined as 60 years. The respondent challenged the said action of the petitioner saying that his superannuation comes within the definition of retrenchment according to the definition provided under the provisions of the Act, 1947. He raised the dispute seeking declaration of order dated 26.10.2015 retiring him w.e.f. 31.01.2016 illegal and void and further claimed that he may be allowed to continue till the age of 60 years and be also paid salary from the date of superannuation till the date of reinstatement or attaining the age of 60 years.

(3.2) Reply has been filed by the petitioner taking stand therein that according to the order of appointment and the terms and conditions contained therein, the age of superannuation was determined as 58 years and the amendment on which reliance has been placed by the employee is not applicable to the petitioner’s organisation.

(3.3) The Labour Court entertained the reference made to it by the Labour Commissioner, Indore, and answered vide impugned award dated 30.09.2019 holding that the order dated 26.10.2015 retiring the respondent w.e.f. 31.01.2016 at the age of 58 years was illegal and void and directed him to be entitled to get 50% of back wages till the date of attaining the age of 60 years.

(3.4) Challenging the award passed by the Labour Court, this petition has been filed by the petitioner raising solitary ground that the impugned award is without jurisdiction as the petitioner/company is a group of cement manufacturing industry engaged in manufacturing of cement and governs with the provisions of the Industries (Development and Regulation) Act, 1951 (for short the 'Act, 1951') and as per Schedule-I of the said Act, cement industry is shown at Item No.35 under the control of Central Government and as such, provisions of Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (for brevity the 'Act, 1961') and Rules framed thereunder are not applicable to the cement industry.

4. The respondent-workman working in the petitioner's company should have raised industrial dispute before the Conciliation Officer appointed by the Central Government

because the “appropriate Government” for the respondent was the Central Government and as such, the State Government has committed an error in entertaining and referring the dispute decided by the Labour Court, Satna by the impugned award, therefore, the same is without jurisdiction and declared to be void. The hub of the issue is whether the State Government is an “appropriate Government” and competent to refer the dispute in regard to respondent or not?

5. Shri Adhikari appearing for the petitioner giving strength to his stand submits that the petitioner’s organisation is a group of cement industry and is under control of the Central Government because the cement industry finds place at Item No.-35 of the First Schedule of the Act, 1951 and according to him, the cement industry and the employees working therein govern with the provisions of the Act, 1951 as the same is under the control of the Central Government. He has drawn attention of this Court towards Section 2 of the Act, 1951 which reads as under:-

> **“2. Declaration as to expediency of control by the Union.–** It is hereby declared that it is expedient in the public interest that the **Union should take under its control the industries specified in the First Schedule**.”

Further, Item No.-35 of the First Schedule of the Act, 1951

reads as under:-

> "**35. Cement and Gypsum Products:**
>
> (1) Portland cement.
>
> (2) Asbestos cement.
>
> (3) Insulating boards.
>
> (4) Gypsum boards, wall boards and the like."

6. Shri Adhikari further submits that as per Section 4 of the Industrial Employment (Standing Orders) Act, 1946 since the cement industries are under the control of the Central Government, therefore, are governed with the provisions of the Act, 1946 and no other provisions like the Act, 1961 would be applicable to them. He has further drawn attention of this Court towards Section 4 of the Act, 1946 which reads as under:-

> "[3][(4) Nothing in this Act shall apply to–
>
> (i) any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946 (Bombay Act 11 of 1947) apply; or
>
> (ii) any industrial establishment to which the provisions of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (Madhya Pradesh Act 26 of 1961) apply:
>
> Provided that notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (Madhya Pradesh Act 26 of 1961), the provisions of this Act shall apply to all industrial establishments under the **control of the Central Government**.]"

7. He has also submitted that the provisions of the Act, 1961 do not apply to the petitioner/company as per Section 2 of the Act, 1961. He has also drawn attention of this Court towards Section 2 of the Act, 1961 which provides for applicability of the provisions of the said Act which reads as under:-

> "**2. Application of the Act.– (1)** This Act shall apply to :–
>
> (a) every undertaking wherein the number of employees on any day during the twelve months preceding or on the day this Act comes into force or non any day thereafter was or is more than twenty; and
>
> (b) such other class or classes of undertakings as the State Government may, from time to time, by notification, specify in this behalf :
>
> **[2][Provided that it shall not apply to an undertaking carried on by or under the authority of the Central Government or railway administration or a mine or an oilfield.]"**

8. Shri Adhikari submits that proviso attached to Section 2 categorically provides that the provisions of the Act, 1961 would not be applicable to an undertaking carried on by or under the authority of the Central Government. He has further drawn attention of this Court towards Section 4 of the Act, 1961 and submits that Section 4 very categorically provides that where the provisions of the Act, 1961 apply, the provisions of the Act, 1946 would not apply as Section 4 of the Act, 1961

provides as under:-

> "**4. Central Act XX of 1946 not to apply.–**Nothing in Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), shall, apply to any undertaking to which this Act applies :"

9. Shri Adhikari also submits that in view of the aforesaid submissions, it is clear that the amendment made under the provisions of the M.P. Industrial Employment (Standing Orders) Rules, 1963 which has been framed under the power conferred in Section 21 of the Act, 1961 wherein Rule 14-A prescribed the age of retirement and as such, the earlier age of retirement i.e. 58 years was increased to 60 years. He also submits that so far as the petitioner is concerned, the provisions of the Act, 1946 are applicable to the petitioner/company and the Rules made under the power conferred in Section 55 of the Act, 1946, are known as the Industrial Employment (Standing Orders) Central Rules, 1946 which itself contained the age of retirement which is prescribed in Schedule-I-B attached to the said Rules, which reads as under:-

> "**(3) Age of retirement**
>
> The age of retirement or superannuation of a workman shall be as may be agreed upon between the employer and the workman under an agreement or as specified in a settlement or award which is binding on

> both the workman and the employer. Where there is no such agreed age, retirement or superannuation shall be on completion of [58] years of age by the workman."

10. Shri Adhikari further submits that in view of the provisions of the Act, 1946 there is a "wage settlement" between the Cement Manufacturers' Association and Workers' Federation & Central Trade Unions on 27.04.2005 which is available on record as Annexures-R-J-1 to R-J-4 filed along with rejoinder. He also submits that as per the "wage settlement", the employees had taken the benefit of wage enhancement made from time to time by the Central Government and, therefore, at the verge of retirement, the respondent cannot take the benefit of the age of retirement enhanced by the State Government because there is no increase in the age of retirement as prescribed under the provisions of the Central Rules, 1946 which governed the service conditions of the respondent. Shri Adhikari also submits that the State notification published in the State Gazette on 28.06.2016 (Annexure-P/6) increasing the age of superannuation from 58 to 60 years has no application for the respondent and as such, the communication made by the Assistant Labour Commissioner on 23.07.2020 (Annexure-P/7) is also unjustified asking the petitioner/company to retire its employee at the age of 60 years

as their age of superannuation has been increased to the age of 60 years. He submits that as the provisions of the Act, 1961 and the Rules, 1963 do not have any application over the petitioner/company, therefore, the State amendment has no application for the employees working under the petitioner/company. Shri Adhikari further submits that the petitioner/company is having units all over the India and its employees are transferred from one unit to another even out of the State and, therefore, the State amendment has no application and its applicability over the employees working under the petitioner/company is unreasonable. Shri Adhikari also submits that the cement industries are established in close proximity to a mine and its employees are also attached to a mine and indubitably, the age of retirement of the employees working in a mine, is still 58 years. He further submits that suppose if an employee of petitioner/company is attached to a mine and retired at a relevant point of time at the age of 58 years, the same would cause discrimination with him as the employees working with the petitioner/company would be retired at the age of 60 years as per the State amendment. He also submits that there cannot be discrimination within the same set of employees and to maintain uniformity, the State amendment has no application. Shri Adhikari further submits

that the Supreme Court in case of **Federal Bank Ltd. Vs. Sagar Thomas and others** reported in **(2003) 10 SCC 733**, has explained the employee of a controlled industry in the context of provisions of the Act, 1961 and he placed reliance on paragraph-26 of the said judgment which is reproduced hereinbelow:-

> "26. A company registered under the Companies Act for the purposes of carrying on any trade or business is a private enterprise to earn livelihood and to make profits out of such activities. Banking is also a kind of profession and a commercial activity, the primary motive behind it can well be said to earn returns and profits. Since time immemorial, such activities have been carried on by individuals generally. It is a private affair of the company though the case of nationalized banks stands on a different footing. There may well be companies, in which majority of the share capital may be contributed out of the State funds and in that view of the matter there may be more participation or dominant participation of the State in managing the affairs of the company. But in the present case we are concerned with a banking company which has its own resources to raise its funds without any contribution or shareholding by the State. It has its own Board of directors elected by its shareholders. It works like any other private company in the banking business having no monopoly status at all. Any company carrying on baking business with a capital of five lakhs will become a scheduled bank. All the same, banking activity as a whole carried on by various banks undoubtedly has an impact and effect on the economy of the country in general. Money of the shareholders and the depositors is

with such companies, carrying on baking activity. The banks finance the borrowers on any given rate of interest at a particular time. They advance loans as against securities. Therefore, it is obviously necessary to have regulatory check over such activities in the interest of the company itself, the shareholders, the depositors as well as to maintain the proper financial equilibrium of the national economy. The banking companies have not been set up for the purposes of building the economy of the State; on the other hand such private companies have been voluntarily established for their own purposes and interest but their activities are kept under check so that their activities may not go wayward and harm the economy in general. A private banking company with all freedom that it has, has to act in a manner that it may not be in conflict with or against the fiscal policies of the State and for such purposes, guidelines are provided by Reserve Bank so that a proper fiscal discipline, to conduct its affairs in carrying on its business, is maintained. So as to ensure adherence to such fiscal discipline, if need be, at times, even the management of the company can be taken over. Nontheless, as observed earlier, these are all regulatory measures to keep a check and provide guidelines and not a participatory dominance or control over the affairs of the company. For other companies in general carrying on other business activities, may be manufacturing, other industries or any business, such checks are provided under the provisions of the Companies Act, as indicated earlier. There also, the main consideration is that the company itself may not sink because of its won mismanagement or the interest of the shareholders or people generally may not be jeopardized for that reason. Besides taking care of such interest as indicated above, there is no other interest of the State, to control the

> affairs and management of the private companies. Care is taken in regard to the industries covered under the Industries (Development and Regulation) Act, 1951 that their production, which is important for the economy, may not go down, yet the business activity is carried on by such companies or corporations which only remains a private activity of the entrepreneurs/companies."

11. Shri Adhikari has further drawn attention of this Court towards Article 254 of the Constitution of India which clearly provides that if there is any inconsistency between the law made by the Parliament and the State Legislature, then the law made by the Central Government would prevail. He further submits that the subject matter of industrial and labour disputes is a part of concurrent list which finds place at Serial No.22 and under the existing circumstance, the law made by the parliament would prevail and according to it, the age of superannuation of the respondent-workman is 58 years.

12. *Per contra*, Shri Sanjay Verma appearing for the respondents has opposed the submissions made by the counsel for the petitioner and supported the award passed by the Labour Court, Satna saying that the issue raised by the petitioner before this Court has rightly been considered by the Labour Court and negate the said issue saying that the State Government has also a jurisdiction to entertain the dispute

raised by the respondent-workman. He submits that admittedly the petitioner/company is a controlled industry which has been defined in Section 2 (ee) of the Act, 1947. He further submits that the Central Government has issued a notification on 08.12.1977 exercising the power conferred under Section 39 of the Act, 1947 delegating all the State Governments to exercise power in relation to the cement industry which is controlled by the Central Government relating to the dispute between the employers who are the member of a Cement Manufacturers Association. As such, the State Government is also competent to refer the dispute of a workman working under the petitioner/company which is a controlled industry. He further submits that only for those companies which are having their own mines and quarries and are part of the cement industry, the Central Government is an “appropriate Government” and the workman working under those industries cannot approach the State Government for redressal of their dispute/grievance. Shri Verma relies upon an order passed by this Court in **W.P. No.10143/2014** parties being **M/s. Birla Corporation Limited Vs. Ashwani Kumar Singh and another** and other connected petitions dealing with the issue regarding “appropriate Government” of workman working in the mine, in which the High Court has relied upon the view taken by the Supreme

Court in case of **Yovan India Cement Employees Union and another vs. Management of India Cement Ltd. and others** reported in **(1994) 1 SCC 572**, in which the Supreme Court has taken note of the notification dated 08.12.1977 published in gazette India Extraordinary which is available on record as Annexure-P/20 and has held that the State Government is also competent to entertain the dispute in respect of the workman working in the cement industry except in the case of mines and quarries forming part of the cement industries because for the workman working in the said industries, the Central Government alone has jurisdiction. He further relies upon the decision of Division Bench of the Andhra High Court passed in **W.P. No.33081/2014** on 08.03.2016 parties being **Ultratech Cement Limited and another vs. Industrial Tribunal-cum-Labour Court, Anantapuramu, Anantapuramu district AP and others**, and submits that the Division Bench of the said High Court has also dealt with the same issue which is involved in the present case and also took note of the notification dated 08.12.1977 and finally held that the State Government has also jurisdiction to entertain the dispute in relation to the workman working under the controlled industry and also followed the view taken by the Supreme Court in case of **Yovan India Cement Employees Union (supra)**. Shri Verma further submits that the

petitioner/company nowhere stated that they have their own mines and quarries and they are part of the cement industry and in such a situation, the notification dated 08.12.1977 and the view taken by different High Courts and also by the Supreme Court make the order of Labour Court, Satna which is impugned in this petition, valid and justified. The petition, according to him, is without any substance and deserves to be dismissed.

13. I have heard the rival contentions of learned counsel for the parties and perused the record.

14. However, after considering the submissions made by Shri Adhikari and perusing the record, I am not convinced with the stand taken by the petitioner that the petitioner/company is a controlled industry and is having their units all over the India and is established to close proximity of a mine, therefore, it is the Central Government only which is the “appropriate Government” and could entertain the dispute in relation to the respondent. Neither before the Court below nor before this Court, the petitioner tried to establish that the petitioner/company has its own mines and quarries and it is a part of cement industry. There is no pleading in that regard, but Shri Adhikari has tried to convince this Court by saying that the

cement company is established in close proximity of a mine and quarry and the employees of the cement company are also engaged in the mines and, therefore, if an employee working in the mine at the relevant point of time when he has to be superannuated, the age of retirement is 58 years but similarly if the workman at the same time is working in the cement company/industry has to be retired at the age of 60 years in view of the State amendment on which the respondent-workman is relying upon. However, this submission has no force for the reason that the workman appointed by the petitioner/company temporarily attached to perform duties in a mine situated in close proximity of cement company, does not mean that the workman becomes an employee of the said mine because that mine is not owned by the cement company and is not a part of the cement industry, therefore, his age of superannuation would be the same that of workman working in the cement industry. On the contrary, the submission made by the respondent is more convincing for the reason that the respondent-workman appointed by the petitioner/company is not an employee of mine and quarry and in view of the Notification dated 08.12.1977 though the petitioner/company is a controlled industry under the control of the Central Government, but in view of the delegation of power to the State

Government to entertain the dispute in regard to the workman working under the controlled industry, ergo, the State Government is also an “appropriate Government”, therefore, nothing illegal has been done by the State Government referring the dispute of the respondent-workman raised before it.

15. Considering the decision of the Supreme Court passed in case of **Yovan India Cement Employees Union (supra)** and the view taken therein as has been considered by this High Court in case of **Ashwani Kumar Singh (supra)** quoting relevant portion which is as under:-

> ““Subsequently, another notification was published in the Gazette of India Extraordinary dated December 8, 1977 wherein the Government of India exercised its power under Section 39 of the Industrial Disputes Act, 1947, and it was notified that the powers exercisable by Government of India under the Industrial Disputes Act, 1947, in relation to cement industry shall also be exercisable by the State Governments, except in the case of mines and quarries forming part of the cement industry where the Central Government alone has jurisdiction. Thus both the Central Government and State Governments have concurrent jurisdiction in relation to cement industry under the Industrial Disputes Act, 1947, except in the case of mines and quarries forming part of the cement industry. A true copy of said notification dated December 8, 1977 is annexed to this affidavit as Annexure R-II.”

(Emphasis Supplied)."

The view taken by the Supreme Court left nothing uncertain regarding competency of the State Government in relation to the respondent-workman.

16. Likewise, the Division Bench of the Andhra High Court in case of **Ultratech Cement Limited (supra)**, has dealt with the same issue which was as under:-

> "1. Whether the Industrial Tribunal-cum-Labour Court at Anantapuram has jurisdiction to entertain the claim made by the 4th respondent/workman who was working in cement industry which is notified as controlled industry?"

and made observation from paragraph-17 onward which are as under:-

> "17. In case of controlled industry the 'appropriate Government' is the Central Government. The cement industry is a controlled industry. Section 2-a (i) vests exclusive jurisdiction in the Central Government in relation to Industrial dispute arising from employment in various sectors mentioned therein including Controlled Industry. Thus, in so far as cement industry is concerned, Central Government is the appropriate Government which is competent to deal with the matters arising out of Industrial Disputes Act. However, section 39 of the Act vests residuary power in the Central Government to delegate the powers vested in the Central Government to the State Governments by way of a General or Special Order with reference to the controlled industry or other industries mentioned therein. In exercise of such power

Central Government issued notification in S.O.826(E) dated 08.11.1977 published in the Gazette on 08.12.1977 delegating power to State Government with reference to Cement industry. By virtue of this notification the power as exercisable by the Central Government under Section 2 (a) (i) is now vested in the State Government in so far as cement industry is concerned.

(emphasis supplied)

18. The scope of such notification was considered by the Supreme Court in Yovan's case. The Government of Tamilnadu issued notification on 23.09.1987 under Section 10 (1) (c) of the Act referring the dispute between the Union and Management of India Cements to the Industrial Tribunal-cum-Labour Court. The respondent-Company raised preliminary objection on the reference by the State Government contending that the appropriate authority in relation to the cement industry is the Central Government. The said objection was accepted and the claim petition was dismissed. The Supreme Court construed the notification dated 08.12.1977 and held that both Central and State Governments are appropriate Governments under the Act and therefore, upheld the notification issued by the Government of Tamilnadu. Thus on the same issue, the Supreme Court has held that the State Government is also appropriate Government to exercise power under the Industrial Disputes Act concerning the cement industry.

(emphasis supplied)

19. In Workmen of Bagalkot Udyog Limiteds case, the Government of Karnataka issued notification dated 29.08.1986 under Section 10(1) of the Act, prohibiting employment of contract labour in cement industry. On a challenge made, learned Single Judge of the Karnataka

High Court set aside the said notification holding that the State Government is not the appropriate Government within the meaning of Section 10 (1) of the Act.

20. The Division Bench of the Karnataka High Court was of the view that a delegate cannot acquire status equivalent to that of a delegator because despite delegating its powers, the delegator is never denuded of the same and delegator has an unrestricted right to strip off the powers of its delegate. The Division Bench of the Karnataka High Court therefore was of the view that the State Government cannot be treated as appropriate Government in relation to an industrial dispute concerning the cement industry. The Division Bench also sought to distinguish Yovan's case, on the ground that the question raised before the Supreme Court is different and in the context of the said facts of the case, the observations were made. The Karnataka High Court was of the view that what was mentioned by the Supreme Court in Para 8 are only observations.

21. In the cases before the Karnataka, Chattisgarh and Patna High Courts, matters arose under the Contract Labour (Regulation and Abolition) Act 1970. Reading of the judgment of the Patna High Court would show that there is no similar notification issued delegating power to the State Governments. In fact the Patna High Court observed that there is no such provision vested by the Act, 1970 to delegate. It appears that no similar notification as issued under Section 39 of I.D Act was issued under the Act, 1970. Thus all the three decisions have to be seen in the light of the provisions contained in the Act, 1970. The said decisions are not applicable to the facts of the case on hand.

22. On a true and proper construction of relevant

> provisions of the Industrial Disputes Act, I am of the considered opinion that once Central Government exercises power under Section 39 of the Act and delegates the power vested in the Central Government to the State Government, the State Government is equally competent to exercise all the powers as vested in the Central Government by the Act. Once power is validly delegated to the State Government, it cannot be said that State Government cannot constitute Industrial Tribunal for adjudication of claims arising out of employment in cement industry. The delegation is still valid and such delegation is not under challenge."

I have no reason to differ with the views taken by the Supreme Court and various High Courts. The counsel for the petitioners has also not produced or argued anything which would compel me to go beyond the view already discussed above. On the contrary, the respondents relied upon the view of the Supreme Court in case of **Yovan India Cement Employees Union (supra)**, which fortified my view. Therefore, I am also of the opinion that the State Government did nothing wrong to entertain the dispute and referring the same to the Labour Court, Satna.

17. So far as the contention raised by Shri Adhikari regarding Article 254 of the Constitution of India is concerned, I do not find any inconsistency in the law made by the Parliament and the State Legislature and, therefore, there would be no

application of Article 254 of the Constitution in the present case for the reason which have been discussed above.

18. After considering the view taken by the Supreme Court and also the High Court on which the respondent has placed reliance, it is clear that the State Government can also be treated as “appropriate Government” in case of employee working in the petitioner/company which is undoubtedly a controlled industry. Consequently, this Court finds substance in the submission made by the counsel for the respondent and further finds that the Labour Court, Satna has jurisdiction to decide the dispute referred to it by the State Government and as such, the order/award does not call for any interference for the aforesaid reasons.

19. As a result, the petitions are accordingly **dismissed**.

(Sanjay Dwivedi)
Judge

ac/-