D.S. Vasavada Vs. Chief Inspector and ors.

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Court : Gujarat

Decided On : Jan-31-1984

Reported in : (1984)IILLJ124Guj

Judge : R.A. Mehta and; R.C. Mankad, JJ.

Acts : Industrial Disputes Act, 1947 - Sections 10(2), 17(2), 36A and 36A(1)

Appeal No. : Sp. C.A. No. 3390 of 1981, 4545 and 2615 of 1983

Appellant : D.S. Vasavada

Respondent : Chief Inspector and ors.

Judgement :

Mankad, J.

1. These two petitions involve a common question namely, whether an employee or a workman employed in a cinema theatre is entitled to Dearness Allowance (hereinafter referred to as 'D.A.' for short) for the four weekly holidays in a month, which are paid holidays under S. 31(3) of the Bombay Shops and Establishments Act, 1948 (hereinafter referred to as the 'Act').

2. Special Civil Application No. 3390 of 1981 is filed on behalf of the members of the Gujarat Rajya Cinema Employees Union. It is stated that the employees employed by 25 cinema houses in Ahmedabad are members of the said Union. The contention of the petitioner Union is that the employees of the five cinema theatres in Ahmedabad, whose managers are joined as respondents Nos. 2 to 6 (hereinafter referred to as 'Managements of Cinema Theatres' or 'Cinema Theatres'), were paid D.A. at the rate of 75 per cent of D.A. payable to the textile workers at Ahmedabad before 1st January, 1974, under the settlements arrived at with the managements of cinema theatres. This rate of D.A. was enhanced to 87 1/2 per cent with effect from 1st October, 1975. The awards in terms of the settlements were passed by the Presiding Officer of the Labour Court at Ahmedabad. There were further settlements between the employees' Union and the managements of cinema theatres, under which the said rate of D.A. is raised to 91 per cent with effect from 1st January, 1981, 92 1/2 per cent with effect from 1st January, 1982 and 95 per cent with effect from 1st January, 1984. The above percentages are of the D.A. payable to the textile workers at Ahmedabad as already stated above. Petitioners contend that the textile workers at Ahmedabad are paid D.A. for 26 days of a month, which are working days for them. It is submitted that the textile workers are not entitled to paid weekly holidays and it is, therefore, that D.A. is paid to them for 26 days. However, so far as the employees employed in cinema theatres are concerned, they are entitled to at least one day in a week as a holiday

and no deduction from the wages of such employees can be made on account of any holiday given to them under S. 31(3) of the Act. Therefore, it is submitted, the employers are bound to pay D.A. for all the days of month including the holidays and not only for 26 days of a month at the aforesaid rate agreed upon between the parties. It is submitted that the settlements between the parties merely prescribe the rate at which the D.A. is to be paid. It does not award lumpsum D.A. calculated at certain percentage of D.A. paid to textile workers. It was therefore, incumbent upon the cinema theatres to pay D.A. at the rate agreed upon for all the days of a month including the holidays. The cinema theatres are, however, calculating the D.A. on the basis that it was payable in lumpsum at the percentage agreed upon of the D.A. paid to the textile workers. Thus, in effect and substance, the cinema theatres were paying D.A. to its employees for only 26 days of a month and not for all the days of a month. Since the method of calculation adopted by the cinema theatres was not in accordance with the settlements and provisions of S. 31(3) of the Act, he employees' Union demanded payment of he D.A. for all the days of a month including the holidays a the rate agreed upon between the parties. The management of the cinema theatres, however, refused to pay D.A. their employees, as demanded by the employees. The employees' Union, therefore, approached respondent No. 1 the Chief Inspector, appointed under the Act (Responded No. 1 in Special Civil Application No. 3390 of 1981) for implementation of the provisions of S. 31(3) of the Act by taking appropriate action against the managements of the cinema theatres. The Chief Inspector, however, failed to taken any action against the managements of the cinema theatres for their failure to pay D.A. for the weekly holidays for which no deduction from the wages is permissible under S. 31(3) of the Act. It is in the background of these facts that Special Civil Application No. 3390 of 1981 has been filed on behalf of the employees of five cinema theatres of the city of Ahmedabad. In this petition amongst other reliefs, the petitioner Union has prayed : (i) that it be held that by deduction of D.A. for weekly offs or holidays, the management of the cinema theatres have contravened the provisions contained in S. 31(3) of the Act; (ii) that the Chief Inspector, respondent No. 1 in that petition be directed to prosecute the persons concerned for contravention of S. 31(3) of the Act; and (iii) that the managements of the cinema theatres be directed to pay D.A. for the weekly holidays to the employees employed in their cinema theatres.

3. Special Civil Application No. 2615 of 1983 is filed on behalf of Rupali Cinema, one of the cinema theatres in Ahmedabad (reference hereafter made to managements of cinema theatres or cinema theatres would include reference to the said Rupali Cinema also), challenging the award passed by the Gujarat Industrial Tribunal (hereinafter referred to as the 'Tribunal') in Reference (IT) 19/81. An Industrial dispute between Rupali Cinema and its workmen, arising out of a demand made by the workmen for full wages with D.A. on par with textile workers for weekly holidays was referred for adjudication to the Tribunal under S. 10(2) of the Industrial Disputes Act, 1947. The said demand was also based on the provisions contained in S. 31(3) of the Act. It appears that when the reference was heard by the Tribunal, one witness was examined on behalf of the employees, while no oral evidence was led by the employer Rupali Cinema. Witness Waghela examined on behalf on the employees stated that the employees of Rupali Cinema were not being paid D.A. for the weekly holidays. Besides this oral testimony of Waghela no evidence oral or documentary was led before the Tribunal. It further appears that when the arguments were heard by the Tribunal, no one remained present on behalf of the employer. The Tribunal, after hearing the representative of the employees' Union held that D.A. would form part and parcel of the wages payable to the employees of Rupali Cinema. The employer,

that is Rupali Cinema, therefore, could not 'deny the D.A. of weekly off to the employees of this cinema. The Tribunal, therefore, held that the employees are entitled to basic salary plus D.A. for the weekly holidays. On the question as to from which date the employees were entitled to claim D.A. for weekly holidays, the Tribunal held that it would not be proper for it to grant such allowance from any date prior to the date of reference. Since the reference was made on 8th January, 1981, the Tribunal directed that the employer Rupali Cinema should pay to its employees wages including D.A. payable to them for weekly holidays from 1st January, 1981. The employer Rupali Cinema has, therefore, approached this court under Art. 227 of the Constitution of India challenging the validity of the award made by the Tribunal. It may be mentioned here that the affidavits and documents filed in Special Civil Application No. 3390 of 1981 do not form part of the record of the Tribunal. These documents, the settlements arrived between the employees and managements of various cinema theatres of Ahmedabad, on which strong reliance has been placed on behalf of the managements of the cinema theatres. In other words, these settlements were not produced before the Tribunal. Ordinarily, evidence which was not led before the Tribunal could not be permitted to be referred to or relied upon by any of the parties. However, the parties to Special Civil Application No. 2615 of 1983 gave their consent to refer to and rely upon the affidavits and documents filed in Special Civil Application No. 3390 of 1981. In other words, by consent of parties, the affidavits and documents filed in Special Civil Application No. 3390 of 1981 were treated as evidence led before the Tribunal. This course was adopted by the parties to avoid remand to the Tribunal as one of the grievances of the employer Rupali Cinema was that it was not given sufficient opportunity to lead evidence before the Tribunal. Thus the question involved in Special Civil Application No. 2615 of 1983 is the same as one raised in Special Civil Application No. 3390 of 1981. It is in the background of the aforesaid facts that both these petitions are disposed of by this common judgment on the basis of the affidavits and documents filed in Special Civil Application No. 3390 of 1981.

4. The contentions which are raised on behalf of the employees are :-

(1) In view of S. 31(3) of the Act, the employees are entitled to 30 or 31 days' wages including D.A. as the case may be. In other words, they are entitled to wages and D.A. for weekly holidays.

(2) The settlements arrived at between the employees and the managements of the cinema theatres provide only the basis for computation and these settlements must be read in the context of S. 31(3) of the Act.

5. The claim made by the employees is strongly resisted by the cinema theatres. They deny that the employees are entitled to D.A. for weekly offs or holidays they enjoy during a month. Their contentions are as follows. The payment of D.A. was governed by the settlements arrived at between the parties and the managements of the cinema theatres were paying D.A. as per these settlements. There is, therefore, no question of any deduction made from the wages payable to the employees which would attract application of S. 31(3) of the Act. Under the settlements arrived at between the parties the D.A. is to be paid at certain percentage of D.A. paid to the textile workers and it is immaterial or irrelevant whether D.A. is paid to the textile workers for 26 days. The cinema theatres have been paying to their employees D.A. at the certain percentage of D.A. paid to the textile workers as agreed to between the employees and the managements of cinema theatres. The textile workers are paid

wages including D.A. on the basis that month consists of 26 working days. The employees of cinema theatres are paid basic wages for all the 30 or 31 days in a month though they actually work for 26 days in a month. However, they are entitled to D.A. for only 26 days in a month. However, the employees are given benefit of three days' extra wages with full pay and D.A. in lieu of the national and festival holidays and extra day in a month in which there are five Sundays. According to the cinema theatres, three days' extra wages including D.A. are paid for 26th January, Republic day, which is a national holiday, Dhuleti (Holi second day) and New Year's Day. According to the managements of the cinema theatres the petitioner union, by resorting to the provisions of S. 31 of the Act, was attempting to indirectly modify the awards or settlements arrived at between the parties without recourse to due process of law. They contend that the scheme for payment of D.A. to textile workers is also the same as contained in S. 31 of the Act. The textile workers are also paid D.A. and wages for the whole month. Therefore, D.A. at certain percentage of D.A. paid to the textile workers paid to the employees of cinema theatres is also paid for the whole month and not for 26 days as contended by the employees. The employees had accepted the D.A. at the agreed percentage of D.A. paid to the textile workers for the past many years and this clearly indicates as to what the parties intended when the settlements were arrived at between the parties. Whenever there was fresh settlement, it was emphasised that the basic for payment of D.A. remained unchanged. In other words, D.A. was to be paid as in the past and as already stated above, the past practice was to pay D.A. which was equivalent to the agreed percentage of D.A. paid to the textile workers. Besides the aforesaid contentions, which are common to both the petitions, additional contentions which are raised in Special Civil Application No. 3390 of 1981 are :-

(1) The petition is not maintainable as alternative remedies under the Industrial Disputes Act and Payment of Wages Act were available to the employees.

(2) Settlements were arrived at between the managements of the cinema theatres and the employees' union other than the union which has filed this petition and, therefore, the petitioner union has no right or locus standi to file the present petition.

6. Before dealing with the technical objections raised on behalf of the managements of the cinema theatres in Special Civil Application No. 3390 of 1981, we will first proceed to deal with the contentions which are common to both the petitions.

7. The question which we are called upon to decide is whether the employees of the cinema theatres are entitled to D.A. for the weekly holidays. The settlements between the employees of the cinema theatres and the managements of various cinema theatres are almost on identical lines. One of such settlements is at Annexure 'B' in Special Civil Application No. 3390 of 1981. Term (1) of this settlement reads as under :-

'(1) That the Ashok Talkies is at present paving Dearness Allowance to its employees at the rate of 75% of the D.A. payable to the cotton textile workers at Ahmedabad as it was prevalent before 1.1.74. The aforesaid talkies has agreed to increase the aforesaid rate of D.A. by 12% w.e.f. 1st October, 1975 and, therefore, if will be paying the D.A. at the rate of 87 1/2% with effect from the said date. It is clearly understood between the parties that the Ashok Talkies had to increase only rate of D.A. by 12 1/2% the basis of the computation remaining unchanged.'

8. Similar settlement was arrived at between the employees of Model Talkies and its employees and it is at Annexure 'C'. Both these settlements Annexures 'B' and 'C' are dated April 30, 1976. Settlement dated 29th March, 1981 between L. N. Talkies and its employees which is at Annexure 'D' is a specimen of subsequent settlements and its relevant terms (1) and (2) read as under :-

'(1) That the L. N. Talkies (hereinafter referred to as the 'Cinema') agrees to raise the rate of D.A. which was paid on the basis of the D.A. payable to the cotton textile workers at Ahmedabad prior to 1st January, 1974. :

i) 91% with effect from 1-1-81ii) 921/2% -do- 1-1-82iii) 95% -do- 1-1-84 (2) It is expressly understood between the parties that the rate of D.A. as mentioned above is to be computed in the manner in which the D.A. @ 871/2% as at present is being computed and therefore, the basis of computation remains unchanged.'

9. There are similar settlements and awards made on the basis of such settlements in respect of other cinema theatres which are placed on record. We do not consider it necessary to set out the terms of various settlements since the relevant terms are substantially similar. It is clear from these settlements that what was agreed to between the parties was the rate at which D.A. was to be paid to the employees of the cinema theatres. The rate of D.A. was certain percentage of D.A. payable to the textile workers. The settlements did not envisage payment of lumpsum D.A. at certain percentage of D.A. paid to textile workers. The intention of the parties has to be gathered from the language used in the settlement. It is only when there is ambiguity or difficulty in understanding or interpreting the terms of the settlement or agreement that the conduct of the parties to the settlement, might, in a given case, have relevance in gathering their intention. If the terms of the settlement are clear and unambiguous, we cannot look anywhere else to gather the intention of the parties. In our opinion, the terms of the various settlements clearly reveal that the employees of the cinema theatres were not to be paid D.A. in lumpsum at certain percentage of D.A. paid to the textile workers but at a rate which was certain percentage of D.A. payable to the textile workers. The settlements merely fix the rate at which D.A. was to be calculated and that rate was to be applied for determining D.A. payable to the employees in accordance with law. That is the basis for calculating the D.A. and it is that basis which as pointed out by the cinema theatres has remained unchanged. It is true that in the past the employees have been paid D.A. on the basis that they were entitled to such allowance at certain percentage of D.A. paid to the textile workers, but that would not be determinative factor. It is also not correct to say that they were uniformly paid D.A. on that basis. There is overwhelming evidence and material on record to indicate that the textile workers are paid D.A. for 26 days. This is clear from various awards of the Tribunal produced before us for our perusal with the consent of the parties. It was also pointed out to us that even the textile workers were paid D.A. for additional day when any national holiday was declared to be a paid holiday. In case of the employees of the cinema theatres. It is not disputed that they were paid D.A. for extra day when there were five Sundays in a month or when there was a paid holiday besides the weekly holidays. Thus in some months the employees were paid D.A. for 27 days or 28 days in a month, depending upon the extra Sunday or paid holiday besides the weekly holiday. Paid holidays are 26th January, the Republic Day, Dhuleti (Holi second day) and New Year's Day. Now, if the employees were entitled to lumpsum D.A. at certain percentage of the D.A. paid to the textile workers for the whole month as contended on behalf of the managements of the cinema theatres, the employees would not have

been the extra D.A. as aforesaid. If the managements of cinema theatres are right in their contention, all that they were required to find out was what was the D.A. paid to the textile workers and work out the D.A. payable to their employees by applying the agreed percentage to it. However, as pointed out above, that has not been done in all the months. This clearly indicates that the D.A. which was payable to the employees under the settlements referred to above was not payable by month. It was paid on the basis that the D.A. was paid to textile workers for 26 days. Having regard to the terms of the settlement, the method adopted by the managements of the cinema theatres in calculating D.A. is not correct. The mere fact that the employees accepted the D.A. on the aforesaid basis of no consequence and does not absolve the managements of the cinema theatres from paying the D.A. in accordance with law. If S. 31(3) imposes liability on the cinema theatres to pay D.A. to their employees for holidays, they cannot escape their liability by relying on settlements which only provide for rate at which D.A. is to be paid. In fact, the cinema theatres could not have arrived at settlement which contravened S. 31(3) of the Act or which absolved them from their statutory duty. If employees make demand for compliance with the provisions of the law, they cannot be accused of indirectly seeking modification of settlements.

Sub-sections (1) and (3) of S. 31 of the Act read as under :

'31(1) Every employee in a theatre or other places of amusement or entertainment shall be given at least one day in a week as a holiday :

Provided that nothing in the sub-section shall apply to an employee whose total period of employment in any week is less than six days.

xx xx xx(3) No deduction shall be made from the wages of an employee in a theatre or other place of public amusement or entertainment on account of any holiday given to him under Sub-s. (1). If any employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday given to him.'

Section 2(3) of the Act says that 'wages' means was as defined in the Payment of Wages Act. 1936. The term 'wages' is defined in S. 2(VI) of the Payment of Wages Act and in so far as is relevant for the purpose of this petition the said definition reads as under :

'2(vi) 'wages' means all remuneration (whether by way of salary, allowance or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implies, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment.'

10. The definition of 'wages' clearly covers allowances which include D.A. In other words, D.A. forms part of the wages. Sub-s. (1) of S. 31 lays down that every employee in a theatre or other place of amusement or entertainment shall be given at least one day in a week as a holiday. Sub-s. (3) of the said section provides that no deduction shall be made from the wages of an employee in a theatre or other place of public amusement or entertainment on account of any holiday given to him under Sub-s. (1). It further provides that if any employee is employed on a daily wage, he shall none-the-less be paid his daily wage, for the holiday given to him. The combined reading of Sub-ss. (1) and (3) of S. 31 leaves no room for doubt that an employee in a cinema theatre is entitled to wages for weekly holiday given to him and since the

wages include D.A., he is entitled to D.A. for weekly holidays. It would, therefore not be correct to say that they are not making any deduction from the wages of their employees. Non-payment of D.A. payable to the employees would amount to deduction from their wages. The managements of the cinema theatres cannot take shelter behind the settlement and contend that since they are making payments under settlements as understood and interpreted by them there was no deduction from the wages of their employees. It is not disputed that cinema theatres are paying basic wages to the employees for weekly holidays. What they are not paying to them is D.A. for the weekly holidays. If they are paying basic wages for weekly holidays as they are required to do so under S. 31(1), there is no justification to withhold payment of D.A. for holidays since as pointed out above, wages include D.A. Since as held above, non-payment of D.A. would amount to deduction within the meaning of S. 31(3), there is clear violation of the provisions of Sub-s. (3) of S. 31. In our opinion, the employees of the cinema theatres are entitled to D.A. for weekly holidays and the cinema theatres are bound to pay them D.A. which forms part of the wages payable to them for the holidays. The D.A. is to be calculated for all the days of the month at the rate agreed to between the parties under the settlement. In our opinion, therefore, the Tribunal was justified in passing the award which it did and we see no reason to interfere with it in exercise of our powers under Art. 227 of the Constitution of India.

11. Coming to the objections raised against the maintainability of Special Civil Application No. 3390 of 1981, the first objection which is raised is that efficacious alternative remedies were available to the employees under the Industrial Disputes Act and Payment of Wages Act and, therefore, this Court should not exercise its jurisdiction under Art. 226 of the Constitution of India. It was submitted that the awards on the basis of the settlements were final and cannot be called in question in any manner whatsoever under S. 17(2) of the Industrial Disputes Act. What the employees are seeking by way of this petition is to question the validity of the settlements and the awards passed on the basis thereof. This is clearly in violation of the provision of S. 17(2). It was further submitted that if there was any difficulty or doubt about the interpretation of the awards or settlements, the proper course for the employees to adopt was to have recourse to the provisions of S. 36A(1) of the Industrial Disputes Act. It is only the Tribunal to which the question has been referred under Sub-s. (1) of S. 36A which can give decision on the question. It was, therefore, submitted that the present petition is not maintainable. It was further contended on behalf of the managements of the cinema theatres that if the employees are right in their contention there was deduction from their wages, which was not permissible, it was open to the employees to approach the authority constituted under the Payment of Wages Act by making claim under S. 15 of the said Act. However, instead of resorting to those efficacious alternative remedies available to them, the petitioner union has invoked the extraordinary jurisdiction of this Court under Art. 226 of the Constitution of India by the above petition. Now, it is well settled that merely because an alternative remedy was available to the parties, there is no ground to reject the petition. In Hirday Narayan v. I. T. Officer, (A.I.R. 1971, S.C. 33), the Supreme Court observed to the effect that once the High Court entertains the petition, and gives hearing on merits, the petition there after cannot be rejected on the ground the statutory remedy was not availed of by the petitioner. In Rohtas Industries v. Its Union (A.I.R. 1976 S.C. 425), the Supreme Court observed that an alternative remedy is not a bar to exercise of power under Art. 226 of the Constitution of India. In the Same judgment, the Supreme Court observed that the High Court has power to issue writ against even a private individual. We are referring to this observation in the context of the contention raised on behalf of the

managements of the cinema theatres that writ cannot be issued against them in exercise of the power under Act. 226 of the Constitution. It is thus clear from the aforesaid decisions that availability of alternative remedy is no bar to exercise of power conferred on this Court under Act. 226 the Constitution. Having dealt with the question on merits, it would not be proper to deny the reliefs to the petitioner union merely on the ground that alternative remedies were available to it. But apart from that alternative remedies even assuming they are available to the employee would be of no consequence on relevance so far as the Chief Inspector appointed under the Act is concerned. One of the reliefs which is sought on behalf of the employees is that the Chief Inspector who is one of the respondents would be directed to implement and enforce the provisions of S. 31 of an offence under S. 52 of the Act & the employers are liable to be prosecuted. Therefore, one of the steps which the Chief Inspector can take to enforce the provision of S. 31 is by launching prosecution against the defaulting employers. The directions which the employees have sought against the Chief Inspector could not have been given in the alternative remedies which are suggested on behalf of the managements of the cinema theatres. We are unable to see how S. 17(2) of the Industrial Disputes Act would operate as bar to the petition. Section 17(2) of the Industrial Disputes Act merely provides that the award shall be final and shall not be called in question by any Court in any manner whatsoever. The finality of the awards passed on the basis of the settlements is not sought to be disturbed, nor are they sought to be called in question in the petition. As already observed above, there is no ambiguity in the terms of the settlements and awards. There is, therefore, no question of their being called in question. Since there is no difficulty or doubt in regard to the interpretation of the awards and settlements, there is also no question of taking recourse to the provisions of S. 36A of the Industrial Disputes Act. Petitioners no doubt could have approached the authority constituted under the Payment of Wages Act for recovery of the amounts deducted from their wages, but as already observed above, that is no ground to refuse to grant them reliefs prayed for by them. The remedy available under the Payment of Wages Act may now be time barred. Since this Court has entertained this petition on merits, the employees might not have approached the authority under the Payment of wages Act within the prescribed time under the belief that they would be granted reliefs by this Court. And now if the Court refused to grant them reliefs, they will not be entitled to approach this authority their remedy having become time barred. Under the circumstances, we are not inclined to agree with the submission made on behalf of the managements of the cinema theatres that we should refuse to grant any relief to the employees on the ground that alternative remedies were available to them.

12. We are unable to understand as to why the petitioner union has no right or locus standi to file the present petition on behalf of the employees of the cinema theatres because settlements were arrived at with other unions which represented the employees at the time of settlements.

13. As pointed out above, under the award passed by the Tribunal, the employees of Rupali Cinema have been given D.A. for the weekly holidays with effect from January 1, 1981. The employees of Rupali cinema have not challenged this part of the award of the Tribunal and prayed for grant of D.A. from an earlier date by filing a separate petition. When this was pointed out to the petitioner union in Special Civil Application No. 3390 of 1981, it was submitted that the employees represented by the petitioner union will have no objection for grant of D.A. for the weekly holidays with effect from January 1, 1981, provided the managements of the cinema theatres of these employees pay arrears of D.A. payable to them on the aforesaid basis from January 1,

1981, upto the date of payment within two months from the date of the pronouncement of this judgment and they do not prefer any further proceedings or appeal against this judgment. In other words, it was stated that the employees would have no objection to grant of D.A. from January 1, 1981, on the same basis as the employees of Rupali Cinema, if the aforesaid two conditions are complied with by the managements of the cinema theatres. However, if the managements of the cinema theatres fail to pay arrears of D.A. within two months as suggested above or if they file appeal against the present judgment before the Supreme Court, the employees represented by the petitioner union would not be bound to restrict their claim for arrears of D.A. only with effect from January 1, 1981. In view of the concession made by the employees represented by the petitioner union in Special Civil Application No. 3390 of 1981, we have decided to award them arrears of D.A. as aforesaid with effect from January 1, 1981, subject of course to the conditions suggested on behalf of the said employees. We may, however, make it clear that the managements of the concerned cinema theatres have not agreed to abide by the conditions laid down by the employees. If the managements of the said cinema theatres fail to fulfill the aforesaid two conditions, the employees represented by the petitioner union in the said Special Civil Application would be free to press their claim for D.A. from earlier date and would be at liberty to make application to this Court.

14. In the result, we allow Special Civil Application No. 3390 of 1981. We hold that the employees of the cinema theatres in question are entitled to D.A. for all the days of month including weekly holidays at the rate agreed to between them and the managements of cinema theatres. We direct the managements of the cinema theatres to pay such D.A. with effect from January 1, 1981, subject to the conditions stated above.

15. The Chief Inspector appointed under the Act, respondent No. 1 in special Civil Application No. 3390 of 1981 is directed to take appropriate action against the concerned cinema theatres for enforcing and implementing the provisions of S. 31 of the Act, if the managements of cinema theatres fail to pay D.A. or arrears of D.A. as stated above within two months from today.

16. Rule made absolute with costs in Special Civil Application No. 3390 of 1981. Costs to be paid by Respondents Nos. 2 to 6. No order as to costs so far as Respondent No. 1 is concerned.

No order on Civil Application No. 4545 of 1983.

Special Civil Application No. 2615 of 1983 fails and is rejected.

17. Rule issued in that petition is discharged with costs.