THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI – 1, NEW DELHI.

Present: **Justice Vikas Kunvar Srivastava (Retd.)**
(Presiding officer)
CGIT, Delhi-1

In the matters :

Sl.No.	Case no.	Party names	
1	DID No.243/2018	Mithlesh Kumar	CPWD
2	DID No.246/208	Vinod	CPWD
3	DID No. 68/2020	General Secretary	ONGC
4	DID No.303/2017	Jagdish Gautam	ONGC
5	DID No.304/2017	Harish Chand Sharma	ONGC
6	DID No.145/2017	Jony	DDA
7	DID No.146/2017	Mukesh Kumar	DDA
8	DID No.147/2017	Sanjeev	DDA
9	DID No.148/2017	Vinod Kumar	DDA
10	DID No.149/2017	Devanand	DDA
11	DID No.153/2017	Anil Sharma	DDA
12	DID No.143/2017	Sohan Pal	DDA
13	DID No.144/2017	Ram Babu	DDA
14	DID No.150/2017	Sahab Singh	DDA
15	DID No.151/2017	Krishan Kumar	DDA
16	DID No.152/2017	Vardani	DDA
17	DID No.154/2017	Jagdish Nagar	DDA
18	DID No.18/2017	Nand Kishore Jha	Delhi International Airport (P) Ltd.
19	DID No. 25/2017	Ramesh Chand Jain	Ministry of Finance
20	DID No.26/2017	Bijay Tiwari	CPWD
21	DID No.42/2017	Sunil Kumar	Air India
22	DID No.43/2017	Jai Bhagwan	Air India
23	DID No.44/2017	Sanjay Kumar	Air India
24	DID No.45/2017	Sunil Kumar	Air India
25	DID No.46/2017	Pradeep Kumar	Air India
26	DID No.47/2017	Ashok Kumar	Air India
27	DID No.48/2017	Parminder Kumar	Air India
28	DID No.49/2017	Mukesh Kumar Sharma	Air India

29	DID No. 54/2017	Dimple Arora	Indian Council of Medical Research
30	DID No. 64/2017	Sh. Lalit Kumar	VODAFONE Mobile Services Ltd.
31	DID No. 65/2017	Sh. Anil Kumar	VODAFONE Mobile Services Ltd.
32	DID No. 66/2017	Sh. Yadavander Singh	VODAFONE Mobile Services Ltd.
33	DID No. 94/2017	Vishnu Sharma	I.G.L
34	DID No. 95/2017	Praveen Kumar	I.G.L
35	DID No.101/2017	Arvind Kumar	NDMC
36	DID No.123/2017	Prem Shankar	CPWD
37	DID No.124/2017	Sh.Sanjay Yadav	CPWD
38	DID No.142/2017	Mamta	Central Pension Accounting Office
39	DID No.192/2017	Jai Bhagwan Saini	CPWD
40	DID No.193/2017	Jai Bhagwan	CPWD
41	DID No.194/2017	Satish Kumar Saini	CPWD
42	DID No.195/2017	Babu Lal	CPWD
43	DID No.196/2017	Naresh Kumar	CPWD
44	DID No.197/2017	Natthu Ram	CPWD
45	DID No.198/2017	Ajay Kumar	CPWD
46	DID No.199/2017	Deepak Kumar	CPWD
47	DID No.200/2017	Kailash Chand	CPWD
48	DID No.201/2017	Rakesh	CPWD
49	DID No.202/2017	Vinod Kumar	CPWD
50	DID No.186/2017	Vikas Kumar Singh	DMRC
51	DID No.190/2017	Bhola Pandit	DMRC
52	DID No. 218/2017	Deepak	IGL CNG Filling Station
53	DID No. 225/2017	Dayanand Prasad	AIIMS
54	DID No. 232/2017	Manoj sharma	Northern Communication
55	DID No. 233/2017	Anil	Northern Communication
56	DID No. 234/2017	Puran Chand	Northern Communication
57	DID No. 235/2017	Jai Singh	Northern Communication
58	DID No.165/2019	Vijay Kumar Gupta	New Delhi Municipal Corporation
59	DID No. 229/2017	Sh.Dharmendra Kumar	AAI
60	DID No. 230/2017	Sh.Deepak Kumar	AAI
61	DID No. 231/2017	Dinesh Kumar	AAI
62	DID No. 242/2017	Ram Chander Kumar	AAI
63	DID No. 250/2017	Mohammad Khan	Ashok Hotel

64	DID No. 253/2017	Sh. Sushanta Dey	Kuwait Airways
65	DID No.271/2017	Rishimuni Bind	Cement Grinding Unit
66	DID No.272/2017	Raj Kumar Barai	Cement Grinding Unit
67	DID No.273/2017	Bachitra Singh	Cement Grinding Unit
68	DID No.274/2017	Vikash Kumar	Cement Grinding Unit
69	DID No.275/2017	Kamlesh Sah	Cement Grinding Unit
70	DID No.276/2017	Dhanjee Bind	Cement Grinding Unit
71	DID No.277/2017	Ram Lal Yadav	Cement Grinding Unit
72	DID No.278/2017	Birendra Chaurasiya	Cement Grinding Unit
73	DID No.279/2017	Umesh Chaurasiya	Cement Grinding Unit
74	DID No.280/2017	Satender Chaurasiya	Cement Grinding Unit
75	DID No. 310/2017	Anil Kumar	Safdarjung Hospital
76	DID No. 311/2017	Sunil	Safdarjung Hospital
77	DID No. 313/2017	Sanjay Kaushik	I.G.L
78	DID No. 318/2017	Parvinder Kumar	Indian Industrial Security Service Pvt . Ltd.
79	DID No. 319/2017	Harikant Singh	Indusind Bank Ltd
80	DID No.1/2018	Shiv Prasad	Syndicate Bank
81	DID No. 02/2018	Gaurav Singh	Guruji Elevator
82	DID No.22/2013	Smt.Renu Kumari Sharma	DMRC
83	DID No.20/2018	Rajeev Ranjan	DMRC
84	DID No.21/2018	Rekha Kumari	DMRC
85	DID No.22/2018	Manish Kr. Kanwar	DMRC
86	DID No.23/2018	Jitendra Kumar	DMRC
87	DID No.24/2018	Rajesh Prakash	DMRC
88	DID No.25/2018	Amit Kumar	DMRC
89	DID No.26/2018	Savita	DMRC
90	DID No.27/2018	Mayank Shukla	DMRC
91	DID No.28/2018	Ravindra Kumar	DMRC
92	DID No.29/2018	Deepu Kumar	DMRC
93	DID No.30/2018	Prek Pal Singh	DMRC
94	DID No. 47/2018	D.K. Tripathi	DMRC
95	DID No. 48/2018	Manish Kumar	DMRC
96	DID No. 49/2018	Jitender Kumar	DMRC
97	DID No. 50/2018	Vinod Kumar Gupta	DMRC
98	DID No. 51/2018	Rajesh Kumar	DMRC
99	DID No. 52/2018	Chandan Kumar	DMRC
100	DID No. 53/2018	Rupesh Kumar	DMRC
101	DID No. 54/2018	Pramod Kumar singh	DMRC
102	DID No. 55/2018	Kuldeep	DMRC
103	DID No. 56/2018	Pankaj Kumar	DMRC

104	DID No.16/2018	Radha Sinha	DMRC
105	DID No.17/2018	Manju Verma	DMRC

ORDER

1. A notice was issued on 31.01.2023 by the Secretary to Central Government Industrial Tribunal, Delh-1, under the direction of the Presiding Officer to all the Authorized Representatives and Legal Practitioners persuing the cases of labours with the leave of the court that, whether amendments carried out in the Industrial Dispute Act 1947, Vide Amending Act No. 24 of 2010 still exists and applicable in the event of the subsequent 'Repealing and Amendment Act' 2016 (23 of 2016), fixing 3rd Feb 2023. All the Learned Counsels and Authorized Representatives appeared before the court. On behalf of the concerned Authorized Representatives and the Labour Unions Sh. B.K. Prasad and on behalf of the Learned Counsels engaged by the workmen to pursue their cases before the tribunal under Section (2A) of the I.D Act, Senior Adv. Sh. Rajiv Agarwal submitted arguments which remained continue on 17.02.2023 also.

2. It is a settled proposition of law that issue of jurisdiction over a matter placed before the court either raised preliminarily or at a later stage, or taken by the court suo motto are to be decided as at first because touches the validity of the order passed by that court or tribunal. Therefore, noticing the plea taken by the Management /Opposite Parties in most of the above cases and also in view of the "Repealing and Amending Act" of 2016, this tribunal per se thinks it proper to settle that, whether it has jurisdiction over such matters, before adjudicating deciding them finally for passing an award under the Industrial Dispute Act 1947.

Prologue

3. The Industrial Dispute Act 1947 (Act No.14 of 1947) promulgated on 11th March 1947 is Legislated by the Parliament intending to make provisions for the Investigation and Settlement of Industrial Dispute and for certain other purposes. Any dispute or difference regarding terms of employment or conditions of labour is called Industrial Dispute as defined in Section 2K of the Industrial Dispute Act.

4. The settlement of Industrial Dispute between the Employer and Employee by way of adjudication is provided as remedy available under the I.D. Act. On plain reading of the relevant provision of the I.D. Act 1947 it becomes clear that, there is already provision under Section 10 which makes it statutory obligation to a workman to approach the 'Appropriate Government' in case of any dispute between the employer and the workman for seeking its opinion whether an Industrial Dispute exists or is apprehended, if the 'Appropriate Government' is of the opinion that any industrial dispute exists or apprehended it may refer the same to the 'Board of Conciliation', Courts or Tribunals Section 10 of the I.D. Act is being quoted hereunder for easy reference.

> *"**10. Reference of disputes to Boards, Courts or Tribunals.- (1)** 1[Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time], by order in writing,-*
>
> ***(a)** refer the dispute to a Board for promoting a settlement thereof; or*
>
> ***(b)** refer any matter appearing to be connected with or relevant to the dispute, to a Court for inquiry; or*
>
> ***(c)** refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or*

(d) *refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication:*

Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred workmen, the appropriate Government may, if it so thinks fit, make the reference to a Labour Court under Clause (c);

Provided further that] where the dispute relates to a public utility service and a notice under Section 22 has been given, the appropriate Government shall, unless it considers that the notice has been frivolously or vexatiously given or that it would be inexpedient so to do, make reference under this sub-section notwithstanding that any other proceedings under this Act in respect of the dispute may have commenced:

Provided also that where the dispute in relation to which the Central Government is the appropriate Government, it shall be competent for the Government to refer the dispute to a Labour Court or an Industrial Tribunal, as the case may be, constituted by the State Government;

(1A) *Where the Central Government is of opinion that any industrial dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute and that the dispute should be adjudicated by a National Tribunal, then, the Central Government may, whether or not it is the appropriate Government in relation to that dispute, at any time, by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a National Tribunal for adjudication.*

(2) *Where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, for a reference of the dispute to a Board, Court, Labour Court, Tribunal, or National Tribunal], the appropriate Government, if satisfied that the persons applying represent the majority of each party, shall make the reference accordingly.*

(2A) *An order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this section shall specify the period within which such Labour Court, Tribunal or National Tribunal shall submit its award on such dispute to the appropriate Government:*

Provided that where such industrial dispute is connected with an individual workman, no such period shall exceed three months:

Provided further that where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, to the Labour Court, Tribunal or National Tribunal for extension of such period or for any other reason, and the presiding officer of such Labour Court, Tribunal or National Tribunal considers it necessary or expedient to extend such period, he may for reasons to be recorded in writing, extend such period by such further period as he may think fit:

Provided also that in computing any period specified in this sub-section, the period, if any, for which the proceedings before the Labour Court, Tribunal or National Tribunal had been stayed by any injunction or order of a Civil Court shall be excluded:

Provided also that no proceedings before a Labour Court, Tribunal or National Tribunal shall lapse merely on the ground that any period specified under this sub-section had expired without such proceedings being completed.

(3) *Where an industrial dispute has been referred to a Board, Labour Court, Tribunal or National Tribunal under this section, the*

appropriate Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

(4) *Where in an order referring an industrial dispute to 6a Labour Court, Tribunal or National Tribunal] under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, [the Labour Court or the Tribunal or the National Tribunal, as the case may be], shall confine its adjudication to those points and matters incidental thereto*

(5) *Where a dispute concerning any establishment or establishments has been, or is to be, referred to a Labour Court, Tribunal or National Tribunal under this section and the appropriate Government is of opinion, whether on an application made to it in this behalf or otherwise, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter but before the submission of the award, include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion any dispute exists or is apprehended in that establishment, group, or class of establishments.*

(6) *Where any reference has been made under sub-section (1A) to a National Tribunal, then notwithstanding anything contained in this Act, no Labour Court or Tribunal shall have jurisdiction to adjudicate upon any matter which is under adjudication before the National Tribunal, and accordingly,-*

(a) *if the matter under adjudication before the National Tribunal is pending in a proceeding before a Labour Court or Tribunal, the proceeding before the Labour Court or the Tribunal, as the case may be, in so far as it relates to such matter, shall be deemed to have been quashed on such reference to the National Tribunal; and*

> ***(b)*** *it shall not be lawful for the appropriate Government to refer the matter under adjudication before the National Tribunal to any Labour Court or Tribunal for adjudication during the pendency of the proceeding in relation to such matter before the National Tribunal.*
>
> ***Explanation.*** *- In this sub-section "Labour Court" or "Tribunal" includes any Court or Tribunal or other authority constituted under any law relating to investigation and settlement of industrial disputes in force in any State.*
>
> ***(7)*** *Where any industrial dispute, in relation to which the Central Government is not the appropriate Government, is referred to a National Tribunal, then, notwithstanding anything contained in this Act, any reference in Section 15, Section 17, Section 19, Section 33A, Section 33B and Section 36A to the appropriate Government in relation to such dispute shall be construed as a reference to the Central Government but, save as aforesaid and as otherwise expressly provided in this Act, any reference in any other provision of this Act to the Appropriate Government in relation to that dispute shall mean a reference to the State Government.*
>
> ***(8)*** *No proceedings pending before a Labour Court, Tribunal or National Tribunal in relation to an industrial dispute shall lapse merely by reason of the death of any of the parties to the dispute being a workman, and such Labour Court, Tribunal or National Tribunal shall complete such proceedings and submit its award to the appropriate Government."*

5. Further, under Section (2A) of the Act (before the Amendment in the year 2010) Dispute regarding dismissal, discharge, retrenchment or otherwise termination of service of an individual workman is covered by the definition of 'Industrial Dispute' where the dispute arises between the employee and the employer, meaning there by, where no other workman or union of the workmen is

a party to the dispute, such a dispute between workman and the employer shall be an 'Industrial Dispute'.

6. By incorporating the Industrial Dispute Amendment Act (Act No. 24 of 2010 it's Section 3 with affect from 15.09.2010), new Subsection 2 was added by virtue of the amendment in Section (2A) of the Principle Act. Section 2A is Renumbered as Subsection (1) thereof and after Subsection (1) as so renumbered, subsection (2) and (3) were inserted and incorporated, resulting the Section (2A) in the presently existing form in the Act which is reproduced hereunder: -

> ***"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute-***
>
> *(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.*
>
> *(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the*
>
> *Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.*
>
> *(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from*

the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).

7. The aforesaid provision makes it clear that the amended form of Section (2A) vide Amending Act 24 of 2010 empowers a workman to approach the labour court or tribunal by way of making an application directly not withstanding anything contained in Section 10 for adjudication of the disputes arising out of dismissal, discharge, retrenchment or otherwise after the expiry of (Forty Five) days from the date he makes the application to the Conciliation Officer of the Appropriate Government for conciliation of the dispute and the labour court or tribunal is empowered to adjudicate such dispute.

8. The recent legislative development by means of which the Parliament has enacted "The Repealing and Amending Act" 2016 (Act No. 23 of 2016 Dated 6th May 2016) to repeal certain enactments and to amend certain enactments. The Industrial Dispute (Amendment) Act 2010 (Act No. 24 of 2010) is repealed by the aforesaid Repealing and Amending Act". For the purpose of easy reference the same is reproduced hereunder : -

MINISTRY OF LAW AND JUSTICE
(Legislative Department)
New Delhi, the 9th May, 2016/Vaisakha 19, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 6th May, 2016 and is hereby published for general information: -

THE REPEALING AND AMENDING ACT, 2016 NO. 23 OF 2016

[6th May, 2016]

An Act to repeal certain enactments and to amend certain other enactment.

Be it enacted by Parliament in the Sixty-Seventh Year of the Republic of India as follows: -

1. *This Act may be called the Repealing and Amending Act, 2016.*
2. *The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.*
3. *The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.*
4. *The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to; and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any ri9ght, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;*

Nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

(See Section 2)

Year	***No.***	***Short Title***	***Extent of repeal***
1	*2*	*3*	*4*
2010	*24*	*The Industrial Disputes (Amendment) Act, 2010*	*The whole.*

9. In view of the aforesaid enactment by the Parliament to repeal the Act No. 24 of 2010 by which the Subsection (2) and (3) were added in the existing Section (2A) Most of the employers/management in above noted cases have objection as to the jurisdiction of the court. Before adjudicating the claim of the parties on merit as per the pleadings the question to be decided is formatted as below: -

> *"whether the claim petitions referred herein above filed by the Claimant/Workman under Section 2A (2) which has been introduced under the Industrial Dispute Act 1947 by the way of Industrial Dispute Amendment Act 2010 with affect from 15.09.2010, which has been repealed by the (Repealing and Amending Act 2016 Act No. 23 of 2016) with affect from 2016, such Industrial Dispute case filed subsequent to the repealing act aforesaid is maintainable"?*

ARGUMENTS

10. Sh. Rajiv Agarwal, Advocate, learned counsel on behalf of the counsels and Authorized Representatives pursuing their aforesaid cases submitted that the amendment introduced by the Industrial Dispute (Amendment Act 2010) is valid and enforceable in terms of Section 6A of 'The General Clauses Act' 1897 which provides that when any enactment repeals any other enactment by which text of any Central Act was amended by the express omission, insertion or substitution of any matter then, unless a different intention it expreses the repeal shall not affect the continuance of any such amendment made by that enactment so repealed in operation at the time of such repeal. Relied on decision of High Court of Bombay in ***Vasudeva Kurup V. Union of India 2002 SCC Online BOM 1508*** and ***Independent School's Federation of India V. Union of India & Another 2022 SCC Online SC 1113***. The learned counsel further argued that the judgment passed by the High Court of Tripura, Agartala in ***Glenark Pharmaceuticals Ltd. V. The***

State of Tripura in W.P. (C No. 457 of 2020) decided on 10.09.2021 is perincurium and contrary to Section 6A of the General Clauses Act 1897. It is further argued that the object of Section 6A of the General Clauses Act, 1897 is to remove the dead matters from the statute book and to reduce its volume periodically. He illustrated the effect of repealing Act by setting forth an interesting example of disposable syringe which is used to be thrown after injecting the medicine in patient's body. Lastly, the learned counsel submitted that such Acts have no legislative effect because they are designed for editorial revision, intended only to excise the dead matter from the statute book. Mostly, the expurgated amending Acts, because after imparting the amendments to the main Act, those Acts have served their purpose and have no further reason for their existence.

The learned Authorized Representative and counsels appearing on behalf of the management opposite party in their respective, cases have one plane and simple reason for their opposition against the arguments in favour of the continuance and existence of Section 2A (2) of the Industrial Dispute Act that, the same stands repealed by reason of repeal of the Amending Act 2010 as a whole which introduced the said subsections in the existing Section 2A, with effect from 09.05.2016. When the Repealing Act No. 23 of 2016 came into effect. The further argued that, all the claims filed after 09.05.2016 under Section 2A (2) 09.05.2016 shall not be continued validly and the tribunal have no jurisdiction to adjudicate them under the provisions of I.D. Act 1947.

Discussion

11. After hearing the parties at length and going deeply through the cited case laws, now proceed to discuss the matter in issue so as to answer the formulated question apropriately. For the purpose of discussion, it would be pertinent to keep into mind that the word 'Repeal' here contextually means to revoke, abrogate or

cancel particularly a statute. Any statute may also repeal an Act in whole or in part, either partially or wholly to substitute by enacting matter contrary to and inconsistent with the prior legislation. Thus a statute frequently states that certain prior statutory provisions are there by replaced. The matter is repealed by implication, only if, the earlier and later statutory provisions are clearly inconsistent. When repealing provision is itself repealed this does not revive any provision previously repealed by it, unless intended so.

12. The term 'Repeal' is used when the entire Act is abrogated or obliterated. The term 'Amendment' is used when a portion in an Act is repealed and re enacted. In the contextual meaning of the aforesaid words 'Repeal and Amendment'. This would be relevant to contend that, Act No. 23 of 2016 (In Issue) provides it's object itself viz **'An Act to Repeal Certain Enactments and to Amend Certain other Enactments'.** Further, repeal of certain enactments is detailed and specified in the First Scheduled. As the repeal may be partly or wholly the Act further clarifies that the enactment specified in First Schedule are hereby repealed to the extent mentioned in the fourth column thereof. This may be seen in the First Schedule that Act No. 24 of 2010 the Industrial Dispute (Amendment Act 2010) is repealed to the extent of the whole. It is further relevant that the Industrial Dispute (Amendment) Act 2010 (24 of 2010) have introduced and implanted subsection (2) and (3) in the body of Principle Act (I.D. Act 1947) w.e.f. 15.09.2010.

13. The textual reading of the I.D. Act 1947 shows the time to time legislative development in the Act. In 1947 the Industrial Dispute bill was introduced by the Government of India in the Parliament. It was passed in March, 1947 and become the law from 1st April of 1947, repealing the 'Trade Disputes Act, 1929'. Further, while retaining most of the provisions in the earlier law, this Act introduced two new institutions for the investigation and settlement of Industrial Dispute; and

machinery for Industrial Adjudication. A reference to an industrial tribunal under this Act lies where both parties to any industrial dispute apply for such reference, and also where the Appropriate Government considers it expedient so to do. This Act seeks to give a new orientation to the entire conciliation machinery. In ***Hari Prasad V. A.D. Divelkar, Air 1957 SC 121*** the objectives of industrial relations and industrial disputes legislation, is outlined by the Apex Court as under: -

> ***(i) Industrial Peace:*** *For prosperity of industry, it is necessary that there be a continuous and growing production which is only possible if (a)there are no interruptions and stoppages in production i.e., absence of disputes, and (b) if the various agencies of production are satisfied and are in a harmonious bent to work. In other words, industrial peace is very necessary for the vitality of industry.*
>
> ***(ii) Economic Justice:*** *All interruptions in production arising out of industrial dispute are really caused by the dissatisfaction of labour with their existing economic condition. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in varied forms e.g. (a) increase in wages, (b) resistance to decrease in wages, (c) grant of allowances and benefits etc.*

14. In ***Banaras Ice Factory Ltd V. its Workmen AIR 1957 SC 167*** the Apex Court held:-

The Preamble of the Act states that its main object is to make provision for investigation and settlement of Industrial Disputes viwed in the above background the Industrial Dispute Act 1947 is a progressive piece of social legislation and it is designed to settle the disputes on a new pattern known under the adjudicatory machinery. The object of all labour legislation is to ensure fair wages and to prevent disputes so that production might not be adversely affected. In standard ***Vacum Oil Company Errakuman V. Industrial Tribunal, Errakuman 1952-(II) LLJ 612***. The individual and collective disputes are explained that, 'Individual as well as

collective disputes may ripens into Industrial Disputes. The quo nature in Industrial Dispute is that it is a collective dispute. Though a dispute may at a very inception be initiated by individual, yet if it is taken up by the fellow workers or a union, or a sufficient number of workers, it may assume the collective character and would become an Industrial Dispute'. A dispute which continues to retain its individual character can not be recognized as Industrial Dispute. This being the basic law it is within the competence of the legislature to widen or narrow the coverage of an Industrial Dispute.

15. In 1965 by the Act of 1965 a new Section 2A was added in the principal Act, (the I.D Act, 1947) so as to add a specified categories of Industrial Dispute which may also deemed to be Industrial Dispute. The section (as it then introduced) reads as under

> ***2A. Dismissal etc., of an individual workman to be deemed to be an industrial dispute. -*** *Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.*

This amendment does away the necessity that, to make an industrial dispute it must be taken up or espoused by a substantial section of the workmen or any union of those workmen and to provide an individual workman a remedy for security of its service and indirectly freedom to join or not to join any union.

16. Thereafter, by Industrial Dispute Amendment Act (24 of 2010) Section (2A) was renumbered as subsection (1) and by the same Act subsection (2) & (3) were inserted after subsection 1 of the section (2A) of the Industrial Dispute Act 1947

which came into effect since 15.09.2010. Lastly, by Repealing and Amending Act 2016 (Act No. 23 of 2016) w.e.f 09.05.2016 the Industrials Disputes (Amendment Act) 2010(Act No. 24 of 2010) has been repealed. The question is now raised before the tribunal that whether subsection (2) and subsection (3) which were inserted after 2A (1) of Industrial Dispute Act amended. Vide, the Industrial Dispute (Amendment Act 2010) (Act No. 24 of 2010) w.e.f. 15.09.2010 are in existence any longer i.e. whether they are still enforceable after Repealing and Amending Act, 2016 (Act No. 23 of 2016) w.e.f. 09.05.2016 is to be adjudicated.

Effect of the enactment repealing the previous enactment for amending a statute.

17. In order to adjudicate this question it is necessary to take into consideration Section (6A) of the General Clauses Act 1897 which runs as under:-

> ***"6A. Repeal of Act making textual amendment in Act or Regulation-*** *Where any Central Act or Regulation made after the commencement of this Act repeals any enactment by which the text of any Central Act or Regulation was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal."*

Section 6A itself explains the object of Repealing and Amending Acts that repealed enactment does not make changes in law, brought into the referred Act therein but remove enactments which become unnecessary and redundant. In Secretary for State of India in Council V. Hindustan Cooperative Insurance Society Ltd. LR 48 IA 259 it is held that 'The Repealing Act of any enactment shall not affect any Act in which such enactment has been applied, incorporated or referred

to. The independent existent of the two Acts is therefore recognized, Despite the death of the Parent Act, its offsprings survives in the Incorporating Act.

18. The Hon'ble *Calcutta High Court* in the case **of *Khuda Bux V. Manager, Caledonian Press (AIR 1954 Cal 484)***, while interpreting the Repealing and Amending Act of 1950 held as under:-

> *"Such Acts have no legislative effect, but are designed for editorial revision, being intended only to excise dead matter from the statute book and to reduce its volume. Mostly, they expurgate amending Acts, because having imparted the amendments to the main Acts, those Acts have served their purpose and have no further reason for their existence. At times, inconsistencies are also removed by repealing and amending Acts. The only object of such Acts which in England, are called Statute Law Revision Acts, is legislative spring- cleaning and they are not intended to make any change in the law. Even so, they are guarded by saving clauses drawn with elaborate care, of which Section 3 of the Repealing and Amending Act of 1950 is itself an apt illustration. Besides providing for other savings, that section says that the Act shall not affect "any principle or rule of law* * notwithstanding that the same may have been * * * derived by, in, or from any enactment hereby repealed."*

19. *Hon'ble Apex Court in* ***K.K. Bvasudeva Kurup vs. UoI & others 2002 (4)****Hh.L.J. 838 has held as under:*

> *"**6.** In our opinion, there is misconception on the part of the petitioner in raising a contention that the provisions of sections 138 to 142 of the original Act have been repealed and the case is governed by section 6 of the General Clauses Act, 1897 and sections 138 to 142 cannot remain operative. In our opinion, the relevant section applicable to the instant case is section 6A of the Act and not section 6 thereof.*
>
> ***7.** Section 6A, which is relevant and material, reads thus: "6A. **Repeal of Act Making textual amendment in Act or Regulation.-***

Where any Central Act or Regulation made after the commencement of this Act repeals any enactment by which the text of any Central Act or Regulation was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal." (Emphasis supplied)

> *It is clear that Parliament wanted to amend the original Act of 1881by inserting Chapter XVII in the Act. For that purpose, an Amending Act of 1988 had been enacted. As soon as the Amending Act of 1988 had been brought into force and implemented, the provisions of Chapter XVII (sections 138 to 142) stood inserted in the original Act of 1881. Thus, from the date on which Amending Act had become law and brought into force, the provisions in the original Act stood amended containing Chapter XVII (sections 138 to 142). The Amending Act thus served its purpose and object. Nothing was required to be done thereafter so far as Amending Act is concerned and was required to be repealed. The repeal of the Amending Act, however, does not affect the law which already stood amended. Let us consider the legal position.*

8. *In* ***Khuda Bux vs. Manager, Caledonian Press, AIR 1954 Cal 484****, speaking for the High Court of Calcutta Chakravarti, C.J. explained the doctrine of repeal of Amendment Act thus:*

> *"Such Acts have no legislative effect, but are designed for editorial revision, being intended only to excise dead matter from the statute book and to reduce its volume. Mostly, they expurgate amending Acts, because having imparted the amendments to the main Acts, those Acts have served their purpose and have no further reason for their existence. At times, inconsistencies are also removed by repealing and amending Acts. The only objects of such Acts which in England are called Statute Law Revision Acts, is legislative spring-cleaning and they are not intended to make any change in the law." (emphasis supplied)*

9. *The above observations of the High Court of Calcutta were quoted with approval by the Supreme Court in* ***Jethanand Betab V. State of Delhi*** *(now Delhi Administration), AIR 1960 SC 89.There, the Apex Court was considering the provisions of the Wireless Telegraphy Act, 1933. Under the*

1933 Act, there was no specific provision making possession of Wireless Transmitter an offence. The said-Act, however, was amended by the Indian Wireless Telegraphy (Amendment) Act, 1949. By insertion of section 6 (1A), possession of Wireless Transmitter was made an offence. The Amendment Act of 1949 was repealed by the Repealing and Amending Act of 1952 (as has been done in the present case by the Act of 2001). The accused was prosecuted under section 6 (1-A) for possessing a Wireless Transmitter and was convicted by the trial Court as well as by the High Court. He approached the Supreme Court.

10. *It was contended before the Apex Court that in view of repeal of section 6 (1-A) by the Repealing and Amending Act, 1952, conviction of the accused was illegal and unlawful. The position of the 1933 Act was restored under which possession of Wireless Transmitter was not an offence. The accused was, therefore, entitled to acquittal.*

11. *The precise question before the court was as to what would be the legal position of the amendment made in the original Act by the Amending Act which was subsequently repealed.*

12. *Referring to Maxwell, Craies and Halsbury's Laws of England, the court observed that such Repealing and Amending Acts strike out enactments which have become unnecessary. Having imparted the amendments to the main Acts, they have achieved their object. They have thereafter no reason for their existence. It is thus a legislative "spring-cleaning" to strike out "excise dead matter from the statute book in order to lighten the burden of ever increasing spate of legislation and to remove confusion from the public mind".*

13. *According to the Court, the object of the Repealing and Amending Act of 1952 was only to expurgate the Amendment of 1949, along with similar Acts which had served the purpose. It was, therefore, held by the Court that section 6(1-A) of the Act continued to remain in the statute book even after Amending Act of 1949 was repealed in 1952 and the order of conviction could not be held to be illegal or unsustainable.*

14. *In our considered opinion, the ratio laid down in Jethanand Betab directly covers the case on hand and answers the question raised before us by the petitioner. To us, it is clear that once an amendment was made in 1881 Act by the Amending Act of 1988 and it had been brought into force, it has*

served its purpose and amended the original Act. Its object was to plant necessary amendment in the 1881 Act. Once such planting has been effected, the Amending Act (Planting Act), having achieved its object, lost its efficacy. It was thereafter not necessary to continue the Amending Act in a statute book. There are several such Amending Acts under which amendments have been made in original Acts. Once the plant takes root in the original Act, an appropriate step is required to be taken by the Legislature. If no action is taken, hundreds and thousands of such Amending Acts continue to remain in statute books. A device is, therefore, adopted by the Legislature to repeal all such Amending Acts, which would repeal only those Acts, i.e. Amending Acts. But such repeal does not affect original Acts which already stood amended. As observed in ***Clarke vs. Bradlough, (1881) 1 QBD 63****, "Where a statute is incorporated, by reference, into a second statute, the repeal of the first statute by a third does not affect the second."*

15. *In our view, therefore, the contention of the petitioner is not well-founded and cannot be upheld. The amendment made in the original Act of 1881 by the Amending Act of 1988 remains in force and repeal of Amending Act in 2001 has not affected the amendment. The contention is, hence, rejected." And Hon'ble the Apex Court in the case of* ***Jethanand Betab Vs. The State of Delhi (1960 AIR SC 89)*** *held as under:-*

> ***REPEALING AND AMENDING ACT, 1952. S. 2:***
> *The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof The First Schedule Year No. Short title Extent of repeal (1) (2) (3) (4) 1949 XXXI the Indian Wireless Telegraphy The whole (Amendment) Act, 1949.*
>
> ***S. 4:*** *The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;*
>
> ** * * The substance of the aforesaid provisions may be stated thus: The Act of 1949 inserted s. 6 (1 -A) in the Act of 1933. The 1949 Act was repealed by the 1952 Act, but the latter Act saved the operation of other enactments in which the repealed enactment has been applied, incorporated or referred to. The first question that arises for consideration is whether the amendments inserted by the 1949 Act in the 1933 Act were saved by reason of s. 4 of the 1952 Act.*

The general object of a repealing and amending Act is stated in `Halsbury's Laws of England, 2nd Edition, Vol. 31, at p. 563, thus:
"A statute Law Revision Act does not alter the law, but simply strikes out certain enactments which have become unnecessary. It invariably contains elaborate provisos." In ***Khuda Bux v. Manager, Caledonian Press Chakravartti****, C.J., neatly brings out the purpose and (1) A.I.R. 1954 Cal. 484.*

Scope of such Acts. The learned Chief Justice says at p. 486:

> *"Such Acts have no Legislative effect, but are designed for editorial revision, being intended only to excise dead matter from the statute book and to reduce its volume. Mostly, they expurgate amending Acts, because having imparted the amendments to the main Acts, those Acts have served their purpose and have no further reason for their existence. At times inconsistencies are also removed by repealing and 'amending Acts. The only object of such Acts, which in England are called Statute Law Revision Acts, is legislative spring-cleaning and they are not intended to make any change in the law. Even so, they are guarded by saving clauses drawn with elaborate care,. . .". It is, therefore, clear that the main object of the 1952 Act was only to strike out the unnecessary Acts and excise dead matter from the statute book in order to lighten the burden of ever increasing spate of legislation and to remove confusion from the public mind. The object of the Repealing and Amending Act of 1952 was only to expurgate the amending Act of 1949, along with similar Acts, which had served its purpose.*

The next question is whether s. 4 of the Act of 1952 saved the operation of the amendments that had been inserted in the Act of 1933 by the repealed Act. The relevant part of s. 4 only saved other enactments in which the repealed enactments have been applied, incorporated or referred to. Can it be said that the amendments are covered by the language of the crucial words in s. 4 of the Act of 1952, namely, applied, incorporated or referred to". We think not. Section 4 of the said Act is designed to provide for a different situation, namely, the repeal of an earlier Act which has been

applied, incorporated or referred to in a later Act. Under hat section the repeal of the earlier Act does not affect the subsequent Act. The said principle has been succinctly stated in Maxwell on Interpretation of Statutes, 10th Edition, page 406:

Where the provisions of one statute are, by reference, incorporated in another and the earlier statute is afterwards repealed the provisions so incorporated obviously continue in force so far as they form part of the second enactment."

Repealing enactment – a periodical measure to excise the unnecessary load of redundant Acts from the statute Book.

20. Repealing of Amending Act is periodically done by the legislation enacting the Repealing Acts as it is necessary. In the Industrial Dispute Act also several Amending Acts were firstly enacted to amend the relevant provisions by addition or substitution in the existing provisions or by replacing the existing provisions by a new one. When the amendments intended by the Amending Act incorporated and planted in the Principle Act, since the role of Amending Act stands fulfilled, the legislation enacted a Repealing Act to Repeal the Amending Act as a whole from the statute books. For example, in the Year 1965 by enacting the Industrial Dispute (Amendment) Act 1965 (35 of 1965) the legislation intended to Add after the existing Section (2) of the Principle Act. The following Section (2A) w.e.f 01.12.1965. The said Section inserted in the Principle Act vide Act No. 35 of 1965 runs as under: -

*"**2A.** Dismissal, etc., of an individual workman to be deemed to be an industrial dispute. Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge,*

dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute."

Thereafter, in the Year 1974 the legislation enacted 'The Repealing and Amendment Act 1974' Act No. 56 of 1974 promulgated by the President of India on 20.12.1974.

"THE REPEALING AND AMENDING ACT, 1974

[Act No. 56 of 1974]

[20th December, 1974]

PREAMBLE

An Act to repeal certain enactments and to amend certain other enactments.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:-

Section 1-Short title

This Act may be called the Repealing and Amending Act, 1974.

Section 2-Repeal of certain enactments.

The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Section 3-*Amendment of certain enactments.*

The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Section 4-*Amendment of the Sixth Schedule to the Constitution in the Sixth Schedule to the Constitution, in paragraph 6, in sub- paragraph (1), for the words "cattle ponds", the words "cattle pounds" shall be substituted.*

Section 5-Savings- *The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to; and this Act shall not affect the validity, invalidity, effect or consequences of anything already dome or suffered, or any right, title, obligation or liability already acquired accrued or incurred or any remedy or proceeding in respect thereof,*

or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing: nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed; nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

Schedule 1 - THE FIRST SCHEDULE

THE FIRST SCHEDULE (See section 2)

Repeals Year	***No.***	***Short title***	***Extent of repeal***
1	*2*	*3*	*4*
1965	*35*	*The Industrial Disputes*	*The whole*
		(Amendment) Act, 1965	

21. Dispite the Repealing Act No. 56 of 1974 repealed the Amending Act 1965 (35 of w.e.f. 01.12.1965) as a whole the Section (2A) inserted there by in the Principle Act continued into text book validly in effect till date. Likewise, the Amending Act enacted in the Year 2010 (Act No. 24 of 2010) which renumbered the existing Section (2A) as Subsection (1) and further Subsection (2) & (3) therein were inserted and added. Vide, the Repealing and Amending Act 2016 (Act No. 23 of 2016) which is in issue presently before the tribunal, came in force w.e.f.

2016 has repealed the entire Amending Act of 2010 (Act No. 24 of 2010) and by virtue of Section (4) of the Repealing Act the same remain continued to exist in the statute book till today.

22. The Ministry of Law & Justice Legislation Department on 16.05.2016 issued a clarification the relevant portion whereof is quoted hereunder as follows: -

> *"**4.** The repeal of an Amending Act does not affect such portions of the statute which have been already incorporated into the principle/parent Act. The Act directing incorporation may be repealed, but the incorporated section or sections still operate in the former Act [AIR 1951 Cal.97 (99)]. Thus, the repeal of any Amending Act does not have the effect of destroying the amendment incorporated in the parent Aet. The amendments made in the parent Act by the Amending Act would continue to remain in the parent Act. The repeal of the Amending Act will not affect the continuance in force of the amendments carried out by the Amending Act which have become part of the parent Act. The Supreme Court while interpreting section 6 A of the General Clauses Act, observed that the functions of the incorporating legislature is taken almost wholly as the function of effecting the incorporation and when that function is accomplished, the legislation dies as it were, a natural death which is formally effected by its repeal [AIR 1962 SC 316 (334))."*

Likewise, the Ministry of Labour & Employment notified on 10.06.2019 the following clarification which is after the enactment of Repealing Act of 2016 (23 of 2016) w.e.f. 06.05.2016.

23. The Repealing and Amendment Act 2016 (Act No. 23 of 2016) has not intended to make any amendment in the existing provision of the adjudicatory machinery of the Labour Court/Tribunal and scheme as provided in Section (2A) and Section (10) contrary to them or in abrogation, obliteration of the same. Therefore, shall not be proper to constru as against the provisions of the Repealing

and Amendment Act of 2016 and also against the provisions of Section (6A) of the General Clauses Act that with the Repeal of Act No. (24 of 2010) the Industrial Dispute (Amendment Act 2010). The amendment inserted in existing Section (2A) inserting Subsection (2 &3) therein stand wideoff.

MINISTRY OF LABOUR AND EMPLOYMENT
NOTIFICATION
New Delhi, the 10th June, 2019

S.O. 1936(E)*.—In exercise of the powers conferred by section 39 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby directs that where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman and any industrial dispute between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination is referred by the workman by making application under sub-section (2) of section 2A of the said Act to the jurisdictional Conciliation Officer holding the rank of Labour Enforcement Officer or Assistant Labour Commissioner (Central) or Regional Labour Commissioner (Central) or Deputy Chief Labour Commissioner (Central) or Additional Chief Labour Commissioner (Central) or Chief Labour Commissioner (Central) and where such conciliation fails, then, such Conciliation Officer shall, instead of making the Failure of Conciliation Report to the Central Government, exercise the powers of the Central Government himself under section 10 read with section 2A of the said Act and make such report directly to the Labour Court or Tribunal for adjudication subject to the following conditions, namely:-*

(i) where such Conciliation Officer is of the rank of Labour Enforcement Officer or Assistant Labour Commissioner (Central) or Regional Labour Commissioner (Central), he shall at the first instance make such Failure of Conciliation Report to his Regional head holding the rank not below the Deputy Chief Labour Commissioner (Central), who shall examine the said Report and if he is of the opinion that the said industrial dispute under such Failure of

Conciliation Report is not fit for adjudication, then, he shall send such Report to the Central Government for necessary action, otherwise refer the said industrial dispute under the Failure of Conciliation Report to the Labour Court or Tribunal for adjudication; and

(ii) where such Conciliation Officer is of the rank of Deputy Chief Labour Commissioner (Central) or Additional Chief Labour Commissioner (Central), he shall at the first instance make such Failure of Conciliation Report to the Chief Labour Commissioner (Central), who shall examine the said Report and if he is of the opinion that the said industrial dispute under such Failure of Conciliation Report is not fit for adjudication, then, he shall send such Report to the Central Government for necessary action, otherwise refer the said industrial disputes under the Failure of Conciliation Report to the Labour Court or Tribunal for adjudication; and

(iii) where such Conciliation Officer is of the rank of Chief Labour Commissioner (Central) and if he is of the opinion that the said industrial dispute under such Failure of Conciliation Report is not fit for adjudication, then, he shall send such Report to the Central Government for necessary action, otherwise refer the said industrial dispute under the Failure of Conciliation Report to the Labour Court or Tribunal for adjudication.

2. Nothing in this notification shall affect the powers of the Central Government to exercise the powers under section 10 read with section 2A of the said Act consecutively irrespective of such delegation.

[F. No. S-11012/1/2019-IR (PL)]
KALPANA RAJSINGHOT, Jt. Secy.

24. In the case ***WP(C) No. 14045 of 2020 Vijay Pal & 11 others V. UoI & 3 others*** before Hon'ble High Court at Allahabad a controversy came for consideration that *by way of Railways (Amendment) Act, 2008 (Act 11 of 2008) the provisions of Chapter-IV-A (Section 20A to 20P) were incorporated in the principal Act. Subsequently, by the Repealing Amendment Act, 2016 (No. 23 of*

2016) dated 09.05.2016 the section which were incorporated in Railways Act, 1989 by Act No. 11 of 2008, so, the said section has no effect and any action taken in pursuance to said section by an authority is deserved to be quashed, it has been held by the Division Bench of the Hon'ble Allahabad High Court in the said matter as under.

The Hon'ble Court after considering all the relevant judgments with regard to the effect of Repealing Act by a Repealing Enactment. Held as follows: -

> ***8***. *The Railways (Amendment) Act, 2008 (Act 11 of 2008) incorporated Chapter IV-A (Sections 20A to 20P) in the principal Act, i.e. The Railways Act, 1989. By the Repealing Amending Act, 2016 (Act 23 of 2016), the Amendment Act, 2008 has been repealed with a saving clause in Section 4 as under:-*
>
> > *"4. Savings. The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied. incorporated or referred to; and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing; nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognized or derived by, in or from any enactment hereby repealed; nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force."*
>
> ***9***. *The principles laid down by Hon'ble Supreme Court in Jethanand Betab (supra) and by this court in Mohd. Junaid Azad and others (supra) and reading of the Repealing Amendment Act, 2016*

make it clear that the main object of the Repealing Amendment Act, 2016 was only to expurgate the Amendment Act 2008 along with similar Acts, which had served its purpose. Once the provisions of the amending legislation, i.e., the Amendment Act, 2008 had been brought into force and the amendments have been incorporated in the principal Act, Le. The Railways Act, 1989, the subsequent repeal of the amending legislation by the Repealing Amendment Act 2016 would not affect the amendments which had already been effected. Thus, the first submission of leamed counsel for the petitioners that Section 20A and 20E are not available after the Repealing Amending Act, 2016, is legally incorrect and baseless. Therefore, the first submission of the learned counsel for the petitioners is rejected.

Conclusion

25. In answer to the question formulated by this tribunal, *"whether the claim petitions referred herein above filed by the Claimant/Workman under Section 2A (2) which has been introduced under the Industrial Dispute Act 1947 by the way of Industrial Dispute Amendment Act 2010 with affect from 15.09.2010, which has been repealed by the (Repealing and Amending Act 2016 Act No. 23 of 2016) with affect from 2016, such Industrial Dispute case filed subsequent to the repealing act aforesaid is maintainable"?* it is concluded that, the effect of Repealing and Amending Act 2016 (Act No. 23 of 2016) which was enforced w.e.f. 09.05.2016, refers to the other Act by which certain amendment have been repealed considered by this tribunal and discussed herein above. The legal position will be that the amendment which has been brought under Section (2A) of the Industrial Dispute Act 1947 by the Industrial Dispute (Amendment) Act 2010 (24 of 2010) renumbering existing Section (2A) as Subsection (1) and by the same Act No. 24 of 2010 Subsection (2) & (3) are inserted after 2A (1) of the Industrial Dispute Act w.e.f. 15.09.2010 shall remain in force and the Repealing and Amending Act 2016 (ACT No. 23 of 2016) in force w.e.f 06.05.2016 repealing the Industrial Dispute (Amendment Act 2010), has no effect on the legal proceedings or cases which have been initiated as per Act No. 24 of 2010 even after enforcement Act No. 23 of 2016 and the adjudication of the said cases which has been filed before the Industrial Tribunal are maintainable are to be decided on merit.

Order

Office is directed to list all the matters under Section (2A) for their adjudication on merit in accordance with their stages in the proceeding and in chronological order of their pendency.

Justice Vikas Kunvar Srivastava (Retd.)
Presiding Officer
March 17, 2023