THE LIFE INSURANCE CORPORATION OF INDIA A

v.

D. J. BAHADUR & ORS.

November 10, 1980.

[V. R. KRISHNA IYER, R. S. PATHAK & A. D. KOSHAL, JJ.] B

Life Insurance Corporation Act (Act 31), 1956, *sections* 11, 23 *and* 49, *scope of—Whether a general law or a special law—Industrial Disputes Act (Act* 14) 1947, *sections* 9*A*, 19(2), (6), 18, 23, 29—*Object of the Act, award and settlement, distinction from the point of view of legal force—Whether a special legislation vis-a-vis Life Insurance Corporation Act—Annual cash bonus payable to Class-III and Class-IV employees of the Corporation under the settlement of* 1974, *effect of—Effect of notice of termination of the settlements by the Corporation under sections* 9*A and* 19(2) *of the Industrial Disputes Act and section* 49 *of the Life Insurance Corporation Act—Constitution of India,* 1950, *Articles* 12, 38, 39 *and* 43 *and Regulation* 58 *of the Life Insurance Corporation of India (Staff) Regulations,* 1960. C

The Life Insurance Corporation came into existence on the 1st of September, 1956, as a statutory authority established under the Life Insurance Corporation Act (Act 31), 1956. As from the said date all institutions carrying on Life Insurance business in India were nationalised to the extent of such business and their corresponding assets and liabilities were transferred to the Corporation. Section 11 of the Act provided for the transfer of service of those employees of such institutions who were connected with Life Insurance business immediately before the said date to the Corporation and for some other matters. Section 23 of the Life Insurance Corporation Act gave to the Corporation the power to employ such number of persons as it thought fit for the purpose of enabling it to discharge its functions under the Act and declared that every person so employed or whose services stood transferred to the Corporation under section 11 would be liable to serve anywhere in India. Section 49 conferred on the Corporation the power to make regulations for the purpose of giving effect to the provisions of the Act with the previous approval of the Central Government. Sub-section (2) of that section enumerated various matters in relation to which such power was particularly conferred. On 1st of June, 1957 the Central Government promulgated the Life Insurance Corporation (Alteration of Remuneration and other Terms and Conditions of Service of Employees) Order, 1957 altering the remuneration and other terms and conditions of service of those employees of the Corporation whose service had been transferred to it under sub-section (1) of section 11. Clause 9 of the 1957 Order declared that no bonus would be paid but directed that the Corporation would set aside an amount every year for expenditure on schemes of general benefit to the employees such as free insurance scheme, medical benefit scheme and other amenities to them. On the 26th June, 1959, the Central Government amended clause 9 of the 1957 Order so as to provide that non-profit sharing bonus would be paid to those employees of the Corporation whose salary did not exceed Rs. 500 per month. On 2nd of July, 1959 there was a settlement between the Corporation and its employees providing for payment to them of cash bonus at the rate of 1½ D E F G H

A months' basic salary for the period from the 1st September, 1956 to the 31st December, 1961. In the year 1960 the Life Insurance Corporation of India (Staff) Regulations, 1960 were framed and Regulation 58 dealt with the payment of grant of non-profit sharing bonus to its employees. On 14th April, 1962 and 3rd August, 1963 orders were again issued, the effect of which was to remove the limit of Rs. 500 on the basic salary as a condition of eligibility for payment of bonus. The settlement dated 2nd July, 1959 was B followed by three others which were arrived at on the 29th January, 1963. the 20th June, 1970 and the 26th June, 1972, respectively and each one of which provided for payment of bonus at a particular rate.

Disputes between the Corporation and its workmen in regard to the latter's conditions of service were received by two settlements dated the 24th January, 1974 and the 6th February, 1974, arrived at in pursuance of the C provisions of section 18 read with section 2(p) of the Industrial Disputes Act. The Corporation was a party to both the settlements which were identical in terms. However, while four of the five Unions of workmen subscribed to the first settlement, the fifth Union was a signatory to the second. The settlements provided for revised scales of pay, the method of their fixation and dearness and other allowances as well as bonus. The settlements were approved by the Board of the Corporation and also by the Central Government. The D employees of the Corporation having opted for the new scales of pay, bonus was paid in accordance therewith for the years 1973-74 and 1974-75 in April 1974 and in April 1975 respectively. One of the Payment of Bonus (Amendment) Act, 1976 coming into force with retrospective effect from 25th September, 1975 curtailing the rights of employees of industrial undertakings to bonus, though it was inapplicable to the Corporation by virtue of the provisions of section 32 of the Payment of Bonus Act, the payment of bonus E for the year 1975-76 to the employees of the Corporation was stopped under instructions from the Central Government, whose action in that behalf was challenged by the employees through a petition under Article 226 of the Constitution of India in the High Court of Calcutta. The single Judge of the High Court issued a writ of mandamus directing the Corporation to act in accordance with the terms of the settlement dated the 24th of January, 1974. The Corporation preferred a Letters Patent appeal against the decision of F the learned single Judge and that appeal was pending disposal when the Central Government promulgated the Life Insurance Corporation (Modification of Settlement) Act, 1976 on 29th May, 1976. The said Act was challenged by the workmen in the Supreme Court which by a judgment dated 21st February, 1980 (*Madan Mohan Pathak* v. *Union of India*, [1978] 3 SCR 334) declared it to be void as offending Article 31(2) of the Constitution of India and directed the Corporation to forbear from implementing the 1976 Act and G to pay to its Class-III and Class-IV employees bonus for the years 1st April 1975 to 31st March 1976 and 1st April 1976 to 31st March 1977 in accordance with the terms of sub-clause (ii) of clause 8 of each settlement.

On 3rd March, 1978 the Corporation issued to its workmen a notice under sub-section (2) of section 19 of the Industrial Disputes Act declaring its intention to terminate the settlements on the expiry of a period of two H months from the date of the notice was served. The notice, however mentioned in express terms that according to the Corporation no such notice was really necessary for termination of the settlements. On the same date, another notice was issued by the Corporation under section 9A of the Industrial

Disputes Act stating that it intended to effect a change in accordance with the contents of the annexure to the notice, as from the 1st June, 1978, in the conditions of service of its workmen. On 26th May, 1978, the Central Government issued a notification under section 49 of the Life Insurance Corporation Act substituting a new regulation for the then existing regulation bearing serial number 58. The new regulation was to come into force from the 1st of June, 1978. Simultaneously, an amendment on the same lines was made in the 1957 Order by the substitution of a new clause for the then existing clause 9 in pursuance of the provisions of sub-section (2) of section 11 of the L. I. C. Act.

These two notices dated 3rd March, 1978 by the Corporation under sections 19(2) and 9A of the Industrial Disputes Act respectively and the action taken by the Central Government on the 26th May, 1978 by making new provisions in regard to the payment of bonus to the Corporation's employees were challenged successfully by the workmen in a petition to the Allahabad High Court under Article 226 of the Constitution of India and hence the appeal by the Corporation.

Allowing the appeal by majority, the Court

HELD :

Per Iyer, J.—A. The Industrial Disputes Act is a benign measure which seeks to pre-empt industrial tensions, provide the mechanics of dispute resolutions and set up the necessary infra-structure so that the energies of partners in production may not be dissipated in counter-productive battles and assurance of industrial justice may create a climate of goodwill. Its object is "the investigation and settlement of industrial disputes". Parliament has picked out the specific subject of industrial disputes for particularised treatment, whether the industry be in the private or public sector or otherwise. The meat of the statute is industrial dispute, *not* conditions of employment or contract of service *as such.* [1106E, 1110D, 1111B-C]

Bangalore Water Supply and Sewerage Board v. *Rajappa,* [1978] 2 SCC 213, applied.

B. (1) The Industrial Disputes Act substantially equates an award with a settlement, from the point of view of their legal force. No distinction in regard to the nature and period of their effect can be discerned, especially when one reads section 19(2) and (6). Further, it is clear from section 18 that a settlement, like an Award, is also binding. Thus both settlements and Awards stand on the same footing. [1109F, G, 1109 E]

(2) There are three stages or phases with different legal effects in the life of an Award or Settlement. There is a specific period contractually or statutorily fixed as the period of operation. Thereafter, the Award or Settlement does not become *non est,* but continues to be binding. This is the second chapter of legal efficacy but qualitatively different. Then comes the last phase. If notice of intention to terminate is given under section 19(2) or 19(6), then the third stage opens where the Award or the Settlement does survive and is in force between the parties as a contract which has superseded the earlier contract and subsists until a new Award or negotiated settlement takes its place. Like nature, Law abhors a vacuum and even on the notice of termination under section 19(2) or (6), the sequence and

consequence cannot be just void but a continuance of the earlier terms, but with liberty to both sides to raise disputes, negotiate settlements or seek a reference and Award. Until such a new contract or Award replaces the previous one, the former settlement or Award will regulate the relation between the parties. Industrial law frowns upon a lawless void and under general law the contract of service created by an Award or Settlement lives so long as a new lawful contract is brought into being. [1114 A-F]

(3) The precedents on the point, the principles of Industrial Law, the constitutional empathy of Part IV and the sound rules of statutory construction converge to the same point that when a notice intimating termination of an Award or Settlement is issued the legal import is merely that the stage is set for fresh negotiations or industrial adjudication and until either effort ripens into a fresh set of conditions of service the previous Award or Settlement does regulate the relations between the employer and the employees. [1124 F-G]

Judhisthir Chandra v. *Mukherjee*, AIR 1950 Cal. 577; *Mangaldas Narandas* v. *Payment of Wages Authority etc.*, (1957) II LLJ 256 (Bombay D. B.); *Workmen of New Elphinstone Theatre* v. *New Elphinstone Theatre*, (1961) I LLJ 105 (119) (Madras); *Yamuna Mills Co. Ltd.* v. *Majdoor Mahajan Mandal, Baroda & Ors.*, (1957) I LLJ 620 (Bom.); *Sathya Studios* v. *Labour Court*, (1978) I LLJ 227 (Madras); *Maruti Mahipati Mullick & Anr.* v. *M/s. Polson Ltd. & Anr.*, (1970) Lab. & I. C. 308 (Bom.), approved.

South Indian Bank Ltd. v. *A. R. Chako*, [1964] 4 SCR 625; *Management of Indian Oil Corporation Ltd.* v. *Its Workmen*, 1 SCR 110; *Md. Qasim Larry, Factory Manages, Sasamusa Sugar Works* v. *Md. Samsuddin & Anr.*, [1964] 7 SCR 419; followed.

(4) The Settlement under the I. D. Act does not suffer death merely because of the notice issued under section 19(2). All that is done is a notice "intimating its intention to terminate the Award". The Award even if it ceases to be operative *qua* award, continues *qua* contract. Therefore, if the Industrial Disputes Act regulates the jural relations between the L. I. C. and its employees—an "if"—then the rights under the settlements of 1974 remain until replaced by a later Award or Settlement. [1124 G-H, 1125 A-B]

C. (1) In determining whether a statute is a special or a general one, the focus must be on the principal subject matter *plus* the particular perspective. For certain purposes, the Act may be general and for certain other purposes it may be special. [1127 B-C]

(2) The Life Insurance Corporation Act is not a law for employment or disputes arising therefrom, but a nationalisation measure which incidentally, like in any general take-over legislation, provides for recruitment, transfers, promotions and the like. It is *special vis-a-vis* nationalisation of life insurance, but *general* regarding contracts of employment or acquiring office buildings. Emergency measures are special, for sure, Regular nationalisation statutes are general even if they incidentally refer to conditions of service. [1111 H, 1112 A-B]

(3) So far as nationalisation of insurance business is concerned, the Life Insurance Corporation is a special legislation, but equally indubitably, is the inference, from a bare perusal of the subject, scheme and sections and understanding of the anatomy of the Act, that it has nothing to do with the particular problem of *disputes between employer and employees*, and of investigation and adjudication of labour dispute. [1126 G-H, 1127 A]

On the other hand, the Industrial Disputes Act is a special statute devoted wholly to investigation and settlement of industrial disputes which provides definitionally for the nature of industrial disputes coming within its ambit. It creates an infra-structure for investigation into, solution of and adjudication upon industrial disputes. It also provides machinery for enforcement of Awards and Settlements. From alpha to omega the I. D. Act has one special mission—the resolution of industrial disputes through specialised agencies according to specialised procedures and with special reference to the weaker categories of employees coming within the definition of workmen. Therefore, with reference to industrial disputes between employers and workmen, the I. D. Act is a special statute, and the L. I. C. Act does not speak at all with specific reference to workmen. On the other hand, its powers relate to the general aspects of nationalisation, of management when private businesses are nationalised and a plurality of problems which, incidentally, involve transfer of service of existing employees of insurers. The workmen *qua* workmen and industrial disputes between workmen and the employer as such, are beyond the orbit of and have no specific or special place in the scheme of the L.I.C. Act. [1127 C-F]

(4) Thus, *vis-a-vis* 'industrial disputes' at the termination of the Settlement as between the workmen and the Corporation, the I. D. Act is a special legislation and the L. I. C. Act a general legislation. Likewise, when compensation on nationalisation is the question, the L. I. C. Act is the special statute. An application of the *generalia* maxim makes it clear that the I. D. Act being special law, prevails over L. I. C. Act which is a general law. [1127 H, 1128 A-B]

U. P. State Electricity Board v. *H. S. Jain*, [1979] 1 SCR 355, *J. K. Cotton Spinning and Weaving Mills Co. Ltd.* v. *State of Uttar Pradesh*, AIR 1961 SC 1170 at 1174, followed.

(5) Section 11 of the Life Insurance Corporation Act, 1956 does not repel the Industrial Disputes Act, 1947. The provisions of the L. I. C. Act which contained provisions regarding conditions of service of employees would not become redundant, if the I. D. Act was held to prevail. For one thing, the provisions of sections 11 and 49 are the usual general provisions giving a statutory corporation power to recruit and prescribe conditions of service of its total staff—not anything special regarding '*workmen*'. Secondly, no case of redundant words arose because the Corporation, like a University, employed not only workmen but others also and to regulate their conditions of service power was needed. Again, institutions where no dispute arose. power in the employer to fix the terms of employment had to be vested. [1129 F-H, 1130 A-B]

Bangalore Water Supply and Sewarage Board v. *Rajappa*, [1978] 2 SCC 813; *D. N. Banerji* v. *P. R. Mukherjee & Ors.* [1953] SCR 302, followed.

(6) Whatever be the powers of regulation of conditions of service, including payment or non-payment of bonus enjoyed by the employees of the Corporation under the L. I. C. Act subject to the directives of the Central Government, they stem from a general Act and cannot supplant, subvert or substitute the special legislation which specifically deals with *industrial disputes* between workmen and their employees. [1131 F-H]

[The Court directed the Corporation to fulfil its obligations in terms of the 1974 settlements and start negotiations like a model employer, for a fair settlement of the conditions of service between itself and its employees having

realistic and equitable regard to the prevailing conditions of life, principles of industrial justice and the directives underlying Part IV of the Constitution.]

Per Pathak J. (Concurring with Iyer, J.) (1) Both the limbs of sub-section (2) of section 11 of the L. I. C. Act, 1956 are intended to constitute a composite process of rationalising the scales of remuneration and other terms and conditions of service of transferred employees with a view not only to effecting a standardisation between the transferred employees but also to revising their scales of remuneration, and terms and conditions of service to a pattern, which will enable the newly established Corporation to become a viable and commercially successful enterprise. For that reason, it is open to the Central Government under the sub-section to ignore the guarantee contained in sub-section (1) of section 11 in favour of the employees or anything contained in the Industrial Disputes Act, 1947 or any other law for the time being in force or any award, settlement or agreement for the time being in force. [1135 D-G]

The second limb of sub-section (2) of section 11 is not related to employees generally, that is to say, both transferred and newly recruited employees, of the Corporation. It is confined to transferred employees: There is no danger of an order made by the Central Government under the second limb of sub-section (2) in respect of transferred employees being struck down on the ground that it violates the equality provisions of Part III of the Constitution because similar action has not been taken in respect of newly recruited employees. So long as such order is confined to what is necessitated by the process of transfer and integration, the transferred employees constitute a reasonably defined class in themselves and form no common basis with newly recruited employees. [1136 C-E]

The power under the second limb of sub-section (2) of section 11 can be exercised more than once. To effectuate the transfer appropriately and completely it may be necessary to pass through different stages, and at each stage to make a definite order. So long as the complex of orders so made is necessarily linked with the process of transfer and integration, it is immaterial that a succession of orders is made. The deletion of the words "from time to time" found in the Bill, is of no consequence. [1136 E-G]

(2) The notification dated 26th May, 1980 purporting to amend the Standardisation Order is invalid. It has no effect on the right to bonus by the workmen. The notification was intended to apply to transferred employees only. It declares explicitly that the Central Government is satisfied that a revision of the terms and conditions of service of the transferred employees is considered necessary. This is made explicit by the circumstance that identical provisions have been made by the Corporation, with the prior approval of the Central Government, in the new Regulation 58 of a notification issued under both clauses (b) and (bb). [1137 A-C]

(3) A settlement under the Industrial Disputes Act, in essence, is a contract between the employer and the workmen prescribing new terms and conditions. As soon as the settlement is concluded and becomes operative, the contract embodied in it takes effect and the existing terms and conditions of the workmen are modified accordingly. Unless there is something to the contrary in a particular term or condition of the Settlement the embodied contract

endures indefinitely, continuing to govern the relation between the parties in future, subject of course to subsequent alteration through a fresh settlement, award or valid legislation. Settlement is not only a contract but something more. Conceptually, it is a "settlement". It concludes or "settles" a dispute. In order the new contract be afforded a chance of being effectively worked out a mandate obliging the parties to unreservedly comply with it for a period of time is desirable. It was made "binding" by the statute for such period. On the expiry of such period, the ban lifts, and the parties are at liberty to seek an alteration of the contract. [1138 E-H—1139 A-C]

The law laid down in *South Indian Bank Ltd.* v. *A. R. Chacko* [1964] 5 SCR 825 and *Md. Quasim Larry, Factory Manager, Sasamusa Sugar Works* v. *Md. Shamsuddin & Anr.*, [1964] 7 SCR 419 in respect of an Award applies equally in relation to a settlement. [1140B]

(4) The Industrial Disputes Act is a special law and must prevail over the Corporation Act, a general law, for the purpose of protecting the sanctity of transactions concluded under the former enactment. Regulation 58, a product of the Corporation Act, cannot supersede the contract respecting bonus between the parties resulting from the settlement of 1974. [1142 B-D]

Plainly, if a settlement resolves an industrial dispute under the Industrial Disputes Act, it pertains to the central purpose of that Act. This constitutes a special law in respect of a settlement reached under the auspices between an employer and his "workmen" employees. The consequences of such settlement are the product of the special law. [1141 E-F]

The Corporation Act was enacted primarily for effecting the nationalisation of Life Insurance business by transferring all such business to a Corporation established for that purpose. Clearly, the object behind section 11(1), section 23 and clauses (b) and (bb) of section 49(2) of the L. I. C. Act is to provide staff and labour for the purpose of the proper management of the nationalised Life Insurance business. The Corporation Act does not possess the features found in the Industrial Disputes Act. No special provision exists in regard to industrial disputes and their resolution and the consequences of that resolution. The special jurisdiction created for the purpose under the Industrial Disputes Act is not the subject matter of the Corporation Act at all. No corresponding provision in the Corporation Act, a subsequent enactment, deals with the subject matter enacted in the Industrial Disputes Act. [1140 F, 1141 A, F-G]

Yet Parliament intended to provide for the Corporation's "workmen" employees the same opportunities as are available under the Industrial Disputes Act to the workmen of other employers, as demonstrated by section 2(a)(1) of the Corporation Act. The expression "appropriate Government" is specifically defined by it in relation to an industrial dispute concerning the Life Insurance Corporation. Both the Central Government and the Corporation understood the Industrial Disputes Act in that light, for, Regulation 51(2) of the (Staff) Regulations made by the Corporation under clauses (b) and (bb) of section 49(2) of the Corporation Act, with the previous approval of the Central Government, speaks of giving effect to a revision of scales of pay, dearness allowance, or other allowances "in pursuance of any award, agreement or settlement." [1141 G-H, 1142 A-C]

Life Insurance Corporation of India v. *Sunil Kumar Mukherjee*, [1964] 5 SCR 528; *Sukhder Singh* v. *Bhagat Ram*, [1975] 3 SCR 619, referred to.

A *U. P. State Electricity Board & Ors.* v. *Hari Shanker Jain & Ors.*, [1979] 1 SCR 355; *J. K. Cotton Spinning and Weaving Mills Co. Ltd.*, v. *State of Uttar Pradesh*, AIR 1961 SC 1170, followed.

Mary Sawards v. *The Owner of the "Vera Cruz"*, [1884] 10 A. C 59 @ 68, quoted with approval.

(5) In construing the scope of the Corporation's powers under section 11 (1) of the Corporation Act, appropriate importance should be attached to the B qualifying word "duly". When the Corporation seeks to alter the terms and conditions of transferred employees, it must do so in accordance with law, and that requires it to pay proper regard to the sanctity of rights—acquired by the "workmen" employees under settlements or awards under the Industrial Disputes Act. [1142 H, 1143 A-B]

The provision in section 11(2) has been made for the purpose of C protecting the interests of the Corporation and its policy holders. The policy holders constitute an important and significant sector of public interest. Indeed, the avowed object of the entire Corporation Act is to provide absolute security to the policy holders in the matter of their life insurance protection. That is assured by a wise management of the Corporation's business, and by ensuring that when settlements are negotiated between the Corporation and its workmen or when industrial adjudication is initiated in Labour Court and industrial D tribunals, the protection of the policy holders will find appropriately significant emphasis in the deliberations. [1143 D-E]

(6) In the view that the notification dated 26th May, 1978 purporting to amend the Standardisation Order by substituting clause (a) is invalid and the newly enacted Regulation 58 does not effect the contract in respect of bonus embodied in the Settlements of 1974 between the Life Insurance E Corporation and its "workmen" employees, effect must be given to that contract. If the terms and conditions of service created by the contract need to be reconsidered, recourse must be had to the modes recognised by law—negotiated settlement, industrial adjudication or appropriate legislation. [1143 F-G]

Per Koshal, J. (Contra) (1) The Industrial Disputes Act deals with the adjudication or settlement of disputes between an employer and his workmen and would, therefore, be a special law vis-a-vis another statute F *which covers a larger field* and may thus be considered "general" as compared to it. It cannot, however, be regarded as a special law in relation to *all* other laws irrespective of the subject matter dealt with by them. In fact a law may be special when considered in relation to another piece of legislation but only a general one vis-a-vis still another. "Special" and "general" are relative terms and it is the content of one statute *as compared to the other* that will determine which of the two is to be regarded as special in relation G to the other. Viewed in this light the proposition, namely, "the Industrial Disputes Act is a special law because it deals with adjudication and settlement of matters in dispute between an employer and his workmen while the Life Insurance Corporation Act is a general law" cannot stand scrutiny. The Industrial Disputes Act would no doubt be a special Act in relation to a law which makes provisions for matters wider than but inclusive of those covered by it, such as the Indian Contract Act as that is a law relating to *contracts* H *generally* (including those between an industrial employer and his workmen) but it would lose that categorisation and must be regarded as a general law when its rival is shown to operate in a field narrower than its own and such a rival is that part of the Life Insurance Corporation Act which deals with

conditions of service of the employees of the Life Insurance Corporation—a single industrial undertaking of a special type) as opposed to all others of its kind which fall within the ambit of the Industrial Disputes Act. Where the competition is between these two Acts, therefore, the Life Insurance Corporation Act must be regarded as a special law and (in comparison thereto) the Industrial Disputes Act as a general law. [1153 E-F, H, 1154 A-C] A

(1A) Section 11 and clauses (b) and (bb) of sub-section 2 of section 49 of the Life Insurance Corporation Act were intended to be and do constitute an exhaustive and overriding law governing the condition of service of all employees of the Corporation including transferred employees. The proposition, namely, that the Industrial Disputes Act being a special law, would override a general law like the Life Insurance Corporation Act, is incorrect. Even if the Industrial Disputes Act is regarded as a special law in comparison to the Life Insurance Corporation Act, the result would be the same. [1162 E-F, 1153 E] B C

(1B) The general rule to be followed in the case of a conflict between two statutes is that the later abrogates the earlier one (*Leges posteriores priores contrarias abrogant*). To this general rule there is a well known exception, namely, *generalia specialibus non derogant* (general things do not derogate from special things). In other words, a prior special law would yield to a later general law, if either of the following two conditions is satisfied: (i) The two are inconsistent with each other. (ii) There is some express reference in the later to the earlier enactment. If either of these conditions is fulfilled the later law, *even though general,* will prevail. Further four tests deductible from the several texts on interpretation of statutes are : (i) The legislature has the undoubted right to alter a law already promulgated by it through subsequent legislation. (ii) A special law may be altered, abrogated or repealed by a later general law through an express provision. (iii) A later general law will override a prior special law if the two are so repugnant to each other that they cannot co-exist even though no express provision in that behalf is found in the general law. (iv) It is only in the absence of a provision to the contrary and of a clear inconsistency that a special law will remain wholly unaffected by a later general law. [1154 E, G-H, 1156 C-D] D E F

(2) The proposition that the Industrial Dispute Act being a special law would override a general law like the Life Insurance Corporation Act is equally insupportable even if the Industrial Disputes Act is regarded as a special law in connection with the Life Insurance Corporation Act. The word "duly", in section 11(1) of the Life Insurance Corporation Act means properly, regularly or in due manner. In the context in which it is used it may legitimately be given a more restricted meaning, namely, in accordance with law. If reference to the provisions of the Industrial Disputes Act alone was contemplated and the alterations envisaged were merely such as could be achieved by a settlement or award resulting from a compliance thereof, not only would the expression "by the Corporation" become redundant (which would not be a situation conforming to the well-known principle of interpretation of statutes that a construction which leaves without effect any part of the language of a statute will normally be rejected) but the express provisions of clause (bb) of sub-section (2) of section 49 of the Life Insurance Corporation Act, which invest the Corporation with power to make regulations (albeit with the approval of the Central Government) laying down the terms and conditions of service of the transferred employees would also be rendered *otiose.* To the extent, G H

A therefore, that section 11(1) read with that clause confers on the Corporation the power to alter the terms and conditions in question—a power not enjoyed by it under the provisions of the Industrial Disputes Act—it is inconsistent with the Industrial Disputes Act and being a later law, would override that Act despite the absence of the *non-obstante* clause, the inconsistency having arisen from express language and not from mere implication. In other words, sub-section (2) of section 11 not only gives to the Central Government the B power to alter the terms and conditions of service of the employees of the Corporation in certain situations, and to alter them even to the detriment of such employees to such extent and in such manner as it thinks fit, but also states in so many words that such power shall be exercisable "notwithstanding anything contained in sub-section (1) or the Industrial Disputes Act 1947 or in any other law for the time being in force, or in any Award, settlement or agreement for the time being in force." The mandate C of the Legislature has been expressed in clear and unambiguous terms in this *non-obstante* clause and is to the effect that the power of the Central Government to alter conditions of service of the employees of the Corporation shall be wholly unfettered and that any provisions to the contrary contained in the Industrial Disputes Act or for that matter, in any other law for the time being in force, or in any award, settlement, or agreement for the time being in force, would not stand in the way of the exercise of that power even if D such exercise is to the detriment of the employees of the Corporation. The conferment of the power is thus in express supersession of the Industrial Disputes Act and of any settlement made thereunder. The provisions of that Act and the two settlements of 1974 must, therefore, yield to the dictates of section 11(2) and to the exercise of the power conferred thereby on the Central Government. Further, in the face of an express provision, namely, sub-section (4) of section 11 it is not open to the employees to contend that E the law laid down in the Industrial Disputes Act and not sub-section (2) of section 11 would govern them. [1154C, 1157 C-H, 1159 A-E, F-G]

(3) The rule making power conferred on the Corporation by section 49 of the Life Insurance Corporation Act is exercisable notwithstanding the provisions of the Industrial Disputes Act. This power is expressly conferred on the Corporation in addition to that with which it is invested under clause (bb) of the same sub-section (2) of section 49. If clauses (b) and (bb) of that F sub-section were not meant to override the provisions of the Industrial Disputes Act on the same subject they would be completely meaningless, and that is a situation running directly counter to one of the accepted principles of interpretation of statutes. Besides, these two clauses are not to be read in isolation from section 11. The subject matter of the clauses and the section is overlapping and together they form an integrated whole. The clauses must, therefore, be read in the light of section 11. When the two clauses say that the G Corporation shall have the power to frame regulations in regard to the terms and conditions of its employees including transferred employees subject, of course, to previous approval of the Central Government, the power may well be exercised in conformity with the provisions of section 11. And if it so exercised the resultant regulations cannot be said to go beyond the limits specified in the statute. [1159 G-H, 1160 A-D]

H *Life Insurance Corporation of India* v. *Sunil Kumar Mukherjee & Ors.* [1964] 5 SCR 528, followed.

Hukam Chand etc. v. *Union of India and others,* AIR 1972 SC 2427; *B. E. Vadera* v. *Union of India & Ors.* [1968] 3 SCR 575, held inapplicable.

U. P. State Electricity Board and Ors. v. *Hari Shanker Jain and Ors.*, [1975] 1 SCR 355; *Bangalore Water Supply & Sewerage Board etc.* v. *R. Rajappa & Ors.* [1978] 3 SCR 207, explained and distinguished. A

(4) Section 23 of the L. I. C. Act, which envisages employment of persons by the Corporation no doubt implies settlement of conditions of service and that does not mean that once a settlement is arrived at, the same is not liable to be altered except by another settlement reached under section 18 of the I. D. Act. The provisions of sub-sections (1), (2) and (4) of section 11 of the L. I. C. Act and clauses (b) and (bb) of sub-section (2) of section 49 thereof have overriding effect and the terms and conditions of service of the employees of the Corporation forming part of a settlement under the I. D. Act cannot last after they have been altered in exercise of the powers conferred on the Corporation or the Central Government by these povisions, as was done when the new Regulation 58 was framed under section 49 by the Corporation and the new clause 9 was inserted in the 1957 order by the Central Government. Nor can any action taken under section 19(2) and 9A of the I. D. Act have any relevance to the exercise of these powers so long as such exercise conform to the provisions of the L.I.C. Act. [1162 G-H, 1163 A-B] B C

(5) The reliance of the High Court on *Madan Mohan Pathak* v. *Union of India*, [1978] 3 SCR 334, for support to the proposition that "the new Regulation 58 framed under section 49 of the L. I. C. Act and the notification issued under sub-section (2) of section 11 thereof substituting a new clause 9 in the 1957 Order are wholly ineffective against the operation of the 1974 settlements which were arrived at in pursuance of the provisions of the I. D. Act and which therefore continue to govern the parties thereto", is wholly misplaced because: D E

(a) The judgment limited itself to the duration of the settlements as appearing in clause 12 thereof and therefore does not cover any period subsequent to 21st March, 1977.

(b) No finding at all was given nor was any observation made to the effect that sections 11 and 49 of the L. I. C. Act or the action taken thereunder (the promulgation of new Regulation 58 and the new clause 9 of the 1957 Order) was ineffective against the operation of the provisions of the I. D. Act or of the 1974 settlements. *On the other hand the judgment very specifically proceeded on the ground that the two settlements had to and did conform to the provisions of Regulation 58 inasmuch as the Central Government had accorded its approval to them,* (c) Although it was held clearly, rather quite correctly that sub-clause (ii) of clause 8 of the 1974 settlements stood independently of sub-clause (1) thereof, the judgment contains no finding whatsoever to the effect that the conditions of service laid down in those settlement could be varied only by a fresh settlement or award made under the provisions of the I. D. Act and that till then sub-clause (ii) aforesaid would remain in full force. [1165 C-H, 1166 A-B] F G

(6) The observations in *Chako's* case must be taken to mean that the expired award would continue to govern the parties till it is displaced by another contract, *or by a relationship otherwise substituted for it in accordance with law.* In the present case, there is a special mandate by Parliament to fill the void of the 3rd period following the expiry of 1974 settlements which did not obtain in *Chako's case.* [1170 A-C] H

South Indian Bank Ltd. v. *A. R. Chacko*, [1964] 5 SCR 625, *Indian Link Chain Manufacturers Ltd.* v. *Their Workmen*, [1972] 1 SCR 790, *Shukla*

A *Manseta Industries Pvt. Ltd.* v. *The Workmen Employed under it.* [1978] 1 SCR 249; *Haribhau Shinde and another* v. *F. H. Lala Industrial Tribunal, Bombay and another*, AIR 1970 Bom. 213, distinguished.

Sukhdev Singh & Ors. v. *Bhagatram Sardar Singh Raghuvanghi and anr.*, [1975] 3 SCR 619, followed.

(7) 1. Section 11(2) of the Corporation Act suffers from no ambiguity B either by reason of the omission therefrom of the expression "from time to time" or otherwise and it is, therefore, not permissible for a reference to be made to the speech of the then Finance Minister in the matter of interpretation of the sections. [1180 B-C]

Anandji Haridas & Co. (P) Ltd. v. Engineering Mazdoor Sangh & Anr., [1975] 3 SCR 542, applied.

C (7) 2. The power to alter the terms and conditions of service of the Corporation's employees which the Central Government is authorised to exercise in the interests of the Corporation and its policy-holders must of necessity be a power which can be exercised as and when occasion so requires. A contrary view would lead to absurd results in certain given situations. [1179 A-B]

Himangsu Chakraborty and others v. *Life Insurance Corporation of India* D *and others*, 1977 Lab. I. C. 622; *K. S. Ramaswamy and anr.* v. *Union of India and ors.* [1977] I LLJ 211; *Harivadan K. Desai and others* v. *Life Insurance Corporation of India and others*, (1977) Lab. I. C. 1072 (Guj), approved.

Mazagaon Dock Ltd. v. *Commissioner of Income Tax and Excess Profits Tax*, [1959] SCR 848; *Babu Manmohan Das Shah & Ors.*, v. *Bishun Das*, [1967] 1 SCR 836; *Vasantlal Maganbhai Sanjanwala* v. *The State of Bombay and others*, [1961] 1 SCR 341, applied.

E (8) There being no challenge to the *vires* of section 11(2) of the Corporation Act by either side and so long as the section itself is good the exercise of the power conferred by it cannot be attacked unless such exercise goes beyond the limits of the section, either in its content or manner. If the legislature was competent to confer a power on the Central Government to alter the conditions of service of the employees of the Corporation to their detriment F or otherwise, the fact that the power was exercised only to cut down bonus would furnish no reason for striking down clause 9 of the 1957 Order or Regulation 58 as being isolative of Article 14 or 19. [1181 E-F]

(9) Clause 9 of the 1957 Order is not violative of Article 14 or 16 of the Constitution of India. That clause no doubt takes within its sweep only transferred employees because clause 2 of the 1957 Order specifically states that the Order is restricted in its operation to employees of that category; G but then no question of any discrimination whatsoever is involved inasmuch as the transferred employees have not only been treated differently from other employees of the Corporation but by reason of Regulation 58 they have been placed fully at par with the latter. [1181 G-H, 1182 A]

(10) Clause 9 of the Order of 1957 does not suffer from the maxim *"Delegatus non-potest delegare"*. Clause 9 itself states in unmistakable terms that the Corporation may grant non-profit sharing bonus to its employees in H respect of any particular year *subject to the previous approval of the Central Government*, and so the real bonus-granting authority remains the Central Government. There is thus no delegation of any real power to the Corporation through the promulgation of clause 9. [1182 B-D]

(11) New contentions, not raised before the High Court, like "necessity for revising the terms and conditions of service through promulgation of clause 9" will not be permitted to be raised at the Supreme Court level. Again in the absence of any evidence to the contrary, it is permissible to presume that official acts have been regularly performed and that the preamble to the notification therefore, is in accord with facts. [1182 E-G] A

12. When Regulation 2 of 1960 says that it shall apply to every whole-time employee of the Corporation "unless otherwise provided by the terms of any contract, agreement or letter of appointment", all that it means is that if a contract, agreement or letter of appointment contains a term stating that the concerned employee or employees shall not be governed by the Regulations, then such employee or employees shall not be so governed. Regulation 2 is definitely not susceptible of the interpretation that if a settlement has been reached between the Corporation and its employees, the regulations shall not apply to them even though the settlement makes no provision in that behalf. It is nobody's case that the 1974 settlements contain any such provision and Regulation 2, therefore, does not come into play at all. [1183 C-E] B C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2275 of 1978.

Appeal by Special Leave from the Judgment and Order dated 11-8-1978 of the High Court of Judicature at Lucknow in Writ Petition No. 1186/78. D

WITH

Transfer Case No. 1 of 1979.

S. V. Gupte, G. B. Pai, K. J. John and *D. N. Mishra* for the Appellant in C.A. 2275/78. E

R. K. Garg, Madan Mohan, V. J. Francis and *D. K. Garg* for Respondents 1—3, in CA 2275/78.

M. K. Banerjee, Addl. Sol. Genl. *R. N. Sachthey, R. B. Datar* and *Miss A. Subhashini* for Respondent No. 4, in C.A. 2275/78. F

P. K. Chatterjee and *Rathin Das* for the Petitioner in Transfer Case No. 1/79.

M. K. Banerjee, Addl. Sol. Genl., *R. B. Datar, R. N. Sachthey* and *Miss A. Subhashini* for Respondent No. 1 in Transfer Case No. 1/79.

S. V. Gupte, G. B. Pai and *K. J. John* for Respondent No. 6 in Transfer Case No. 1/79. G

For the Interveners

P. K. Chatterjee and *Rathin Das* for All India Employees Assn.

Adarsh Goel, Janardan and *Sarwa Mitter* for National Organisation of Insurance Workers. H

P. R. Kumaramanglam, Mukul Mudgal and *K. Vasdev* for G. Meenakshi Sundaram and K. Ramakrishnan.

A *R. K. Garg, Madan Mohan, V. J. Francis* and *D. K. Garg* for C. N. Sharma and Rajendra Nath Misra.

D. L. Sengupta, S. K. Nandy and *P. S. Khera* for All India Life Insurance Employees Assn. and L.I.C. of India through its Chairman Bombay.

B

The following Judgments were delivered,

KRISHNA IYER, J.

A Word of Explanation.—A preliminary divagation has become C necessary since application and enquiries had been made more than once about the postponement of the judgment. The first anniversary of the closure of oral submissions in the above case is just over; and this unusual delay between argument and judgment calls from me, the presiding judge of the bench which heard the case, a word of explanation and clarification so that misunderstanding about the D judges may melt away in the light. A better appreciation of this court's functional adversities and lack of research facilities will promote more compassion than criticism and in that hope I add this note.

The judicature, like other constitutional instrumentalities, has a culture of national accountability. Two factors must be highlighted E in this context. A court is more than a judge; a collegium has a personality which exceeds its members. The price a collective process (free from personality cult, has to pay is long patience, free exchange and final decision in conformity with the democracy of judicial functionality. Sometimes, when divergent strands of thought haunt the mentations of the members, we pause, ponder F and reconsider because we follow the words of Oliver Cromwell commended for courts by Judge Learned Hand: "My brethren, I beseech you, in the bowels of Christ, think it possible that you may be mistaken." Utter incompatibility exists between judicial democracy and dogmatic infallibility; and so, in this case, we have taken time, more time and repeated extension of time to evolve a G broad consensus out of our initial dissensus. Not procrastination but plural toil, is the hidden truth behind the considerable interval.

Secondly, when important issues demand the court's collective judgment an informed meeting of instructed minds, in many ways, is a *sine qua non.* But the torrent of litigation flooding the court drowns H the judges in the daily drudgery of accumulated dockets. To gain leisure for fundamental reflections with some respite from paper-logged existence and supportive research from trained law clerks is a

'consummation devoutly to be wished' if the final court is to fulfil its tryst with the Constitution and country. The Indian judicial process, *sui generis* in some respects, has its problems, Himalayan in dimension but hardly appreciated in perspective and in true proportions two of which have been mentioned by me in extension of the great gap between closure for judgment and its actual pronouncement. Having said this, I must proceed to deal with the merits of the case and the conclusions we have reached in our diverse opinions. By majority, any way, we dismiss the appeal and find no merit in the contentions of the appellant.

The fundamental differences in approach

My learned brother Koshal, J. has, after long reflection on the issues in this appeal, expressed his conclusion with which I respectfully disagree. Our difference stems from basic divergence in legal interpretation and judicial perspective.

Law is no cold-blooded craft bound by traditional techniques and formal forceps handed down to us from the Indo-Anglican era but a warm-blooded art, with a break from the past and a tryst with the present, deriving its soul force from the Constitution enacted by the People of India. Law, as Vice President G. S. Pathak used to emphasise in several lectures, is a tool to engineer a peaceful 'civil revolution' one of the components of which is a fair deal to the weaker human sector like the working class. The striking social justice values of the Constitution impact on the interpretation of Indian laws and to forget this essential postulate while relying on foreign erudition is to weaken the vital flame of the Democratic, Socialist Republic of India. Chief Justice Earl Warren of the United States has spelt out with clarity and felicity the correct judicial approach to the issues at stake in this case :

> Our judges are not monks or scientists, but participants in the living stream of our national life, steering the law between the dangers of rigidity on the one hand and of formlessness on the other. Our system faces no theoretical dilemma but a single continuous problems how to apply ever-changing conditions the never-changing principles of freedom. (1)

For the Indian judicial process, the nidus of these never-changing principles is the Constitution. The bearing of this broad observation on statutory construction will become evident as we get down to the discussion.

(1) Earl Warren: Fortune, November 1955.

A Now let me proceed to the merits, but, at the outset, underscore the constitutional bias towards social justice to the weaker sections. including the working class, in the Directive Principles of State Policy—a factor which must enliven judicial consciousness while decoding the meaning of legislation. Victorian-vintage rules of construction cannot override this value-laden guide book.

B

The flawless flow of facts, so far as I am able to remember, aided by our notes, finds expression in the stream of narration in our learned brother's judgment and that frees me from a like exercise. But our consensus on the facts is no less than our dissensus on the law. In the pages that follow I adopt, for convenience, the same C acronyms and abbreviations as have been used by brother Koshal, J. in his judgment.

To begin with, I have to stress three key circumstances which colour the vision of social justice: (a) the factum of payment of bonus, without break, since 1959 by the Corporation(1) to its emplo- D yees, (b) the consciousness that the Management in this case is no asocial, purely profit-oriented private enterprise but a model employer, a statutory corporation, created by nationalisation legislation inspired by socialistic objectives; and (c) the importance of industrial peace for securing which a special legislation viz. the Industrial Disputes Act, 1947 (the ID Act, for short) has been in operation for 33 years. E The Corporation is itself a limb of the State as defined in Art. 12 and Arts. 38, 39 and 43 which deal with workers' weal have, therefore, particular significance.

F The Corporation, to begin with, had to take over the staff of the private insurers lest they should be thrown out of employment, on nationalisation. These private companies had no homogenous policy regarding conditions of service for their personnel, but when these heterogenous crowds under the same management (the Corporation) divergent emoluments and other terms of service could not G survive and broad uniformity became a necessity. Thus, the statutory transfer of service from former employers and standardization of scales of remuneration and other conditions of employment had to be and were taken care of by s. 11 of the Life Insurance Corporation Act, 1956 (for short, the LIC Act). The obvious purpose of this provision was to enable the Corporation initially to absorb the motley H multitudes from many companies who carried with them varying incidents of service so as to fit them into a fair pattern, regardless of their antecedent contracts of employment or industrial settle-

(1) Life Insurance Corporation of India.

ments or awards. It was elementary that the Corporation could not perpetuate incongruous features of service of parent insurers, and statutory power had to be vested to vary, modify or supersede these contracts, geared to fair, equitable and, as far as possible, uniform treatment of the transferred staff. Unless there be unmistakable expression of such intention, the ID Act will continue to apply to the Corporation employees. The office of s. 11 of the LIC Act was to provide for a smooth take-over and to promote some common conditions of service in a situation where a jungle of divergent contracts of employment and industrial awards or settlements confronted the State. Unless such rationalisation and standardization were evolved the ensuing chaos would itself have spelt confusion, conflicts and difficulties. This functional focus of s.11 of the LIC Act will dispel scope for interpretative exercises unrelated to the natural setting in which the problem occurs. The inference is clear that s.11 does not repel the ID Act as that is not its purpose. Farewell to the context and fanatical adherence to the text may lead to the tyranny of literality—a hazardous road which misses the meaning or reaches a sense which the author never meant. Lord Denning has observed : "A judge should not be a servant of the words used. He should not be a mere mechanic in the power-house of semantics." Reed Dickerson has in his "The Interpretation and Application of Statutes" warned against 'the disintegration of statutory construction' and quoted Fuller to say :(1)

> ....(W)e do not proceed simply by placing the word in some general context.... Rather, we ask ourselves, What can this rule be for? What evil does it seek to avert?
>
> ....Surely the judicial process is something more than a cataloguing procedure.
>
> ....a rule or statute has a structural or systematic quality that reflects itself in some measure into the meaning of every principal term in it.

I lay so much emphasis on the guidelines to statutory interpretation as this case turns solely on the seeming meaning of certain provisions (for e.g. s. 11) of the LIC Act as capable of perpetual use, not only initial exercise, as the Minister in Parliament indicated. But, as we will presently see, the decisive aspect of the case turns on another point, viz. the competing claims for dominance as between the ID Act and the LIC Act in areas of conflict. Of course,

(1) L. Fuller, Positivism and Fidelity to Law — A reply to Prof. Hart, 71 Harv. L. Rev. 665, 666, 669.

the problem of decoding the legislative intent is fraught with perils and pitfalls, as the learned author has noted : (1)

> To do his cognitive job well, a judge must be unbiased, sensitive to language usages and shared tacit assumptions, perceptive in combining relevant elements affecting meaning, capable of reasoning deductively, and generously endowed with good judgment. In view of these formidable demands, it is hardly surprising that judges often disagree on the true meaning of a statute.

Even so, legal engineering, in the province of deciphering meaning, cannot abandon the essay in despair and I shall try to unlock the legislative intent in the light of the text and as reflecting the context.

A capsulated presentation of the conspectus of facts will aid the discussion.

The battle is about current bonus, the employer is the Life Insurance Corporation and the employees belong to Classes III and IV in the service of the Corporation. The LIC Act brought into being a statutory corporation, i.e. the Life Insurance Corporation and life was breathed into it as from September 1, 1956. Since there was nationalisation of life insurance business under the LIC Act private insurers' assets and liabilities of employees were transferred to the Corporation. We are concerned only with the employees and their services and s.11 of the LIC Act covers this field. I may extract the said provision to make it clear that it deals with the remuneration, terms and conditions and other rights and privileges of transferred employees :

> 11.(1) Every whole-time employee of an insurer whose controlled business has been transferred to and vested in the Corporation and who was employed by the insurer wholly or mainly in connection with his controlled business immediately before the appointed day shall, on and from the appointed day, become an employee of the Corporation, and shall hold his office therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same on the appointed day if this Act had not been passed, and shall continue to do so unless and until his employment in the Corporation is terminated or until his remuneration, terms and conditions are duly altered by the Corporation :

(1) The Interpretation and Application of Statutes, Reed Dickerson, 1975 Edn. pp. 236-7.

Provided that nothing contained in this sub-section shall apply to any such employee who has, by notice in writing given to the Central Government prior to the appointed day, intimated his intention of not becoming an employee of the Corporation. A

(2) Where the Central Government is satisfied that for the purpose of securing uniformity in the scales of remuneration and the other terms and conditions of service applicable to employees of insurers whose controlled business has been transferred to, and vested in, the Corporation, it is necessary so to do, or that, in the interests of the Corporation and its policyholders, a reduction in the remuneration payable, or a revision of the terms and conditions of service applicable, to employees or any class of them is called for, the Central Government may, notwithstanding anything contained in sub-section (1), or in the Industrial Disputes Act, 1947, or in any other law for the time being in force, or in any award, settlement or agreement for the time being in force, alter (whether by way of reduction or otherwise) the remuneration and the other terms and conditions of service to such extent and in such manner as it thinks fit; and if the alteration is not acceptable to any employee, the Corporation may terminate his employment by giving him compensation equivalent to three months' remuneration unless the contract of service with such employee provides for a shorter notice of termination. B C D E

Explanation.—The compensation payable to an employee under this sub-section shall be in addition to, and shall not affect, any pension, gratuity, provident fund money or any other benefit to which the employee may be entitled under his contract of service.

(3) If any question arises as to whether any person was a whole-time employee of an insurer or as to whether any employee was employed wholly or mainly in connection with the controlled business of an insurer immediately before the appointed day the question shall be referred to the Central Government whose decision shall be final. F G

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the service of any employee of an insurer to the Corporation shall not entitle any such employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority. H

A Recruitment of fresh employees is provided for by s.23. And s.49 empowers the Corporation to make regulations in a general way for all the purposes of the Act, including the terms and conditions of service of the employees of the Corporation. Pursuant to its powers the Central Government promulgated the Life Insurance Corporation (Alteration of Remuneration and other Terms and Conditions of B Service of Employees) Order, 1957 (the 1957 Order, for short). This related to the conditions of service of the transferees and was not confined only to Class III and Class IV employees among them. It was a general Order, not one limited to workmen as defined in s.2(s) of the ID Act. Clause 9 of the 1957 Order states that no bonus C will be paid but certain other benefits of insurance, medical care etc., are mentioned therein. Clause 9 was later amended providing for non-profit sharing bonus to certain classes of employees.

Be that as it may, the Corporation, with the clear approval of the Central Government, reached a settlement with its employees on July 2, 1959 providing for payment of cash bonus from September D 1, 1956 to December 31, 1961. Obviously, this was under the ID Act and not under the LIC Act and proceeded on the clear assumption that the ID Act provisions regarding claims of bonus applied to workmen in the employment of the Corporation.

In 1960, the Life Insurance Corporation of India (Staff) E Regulations, 1960 (the 1960 Regulations) were framed. Regulation 58 states :

> The Corporation may, subject to such directions as the Central Government may issue, grant non-profit sharing bonus to its employees and the payment thereof, including conditions F of eligibility for the bonus, shall be regulated by instructions issued by the Chairman from time to time.

Here again, it must be noted that the provision is general and covers the entire gamut of employees of the Corporation and is not a specific stipulation regarding that class of employees who are workmen under the ID Act and whose industrial disputes will be governed ordinarily G by the ID Act.

Consistently with the good relations between the Corporation and its workmen, the settlement of 1959 was followed by those of 1963, 1970 and 1972 providing for bonus for workmen in the service of the Corporation. Rocketing cost of living, rising aspirations and H frustrations of socio-economic life and the general expectations from model employers like the public sector enterprises, have led workmen in this country to make escalating demands for better emoluments,

including bonus. Naturally, the workmen under the Corporation raised disputes for bonus and other improved conditions. The employer, consistently with the long course of conduct by both sides as if the ID Act did govern their relations, entered into settlements dated January 24, 1974 and February 6, 1974, pursuant to the provisions of s.18 read with s.2(p) of the ID Act. Clause 8 of these settlements specificated the scale of bonus and clause 12 thereof is more general and may be read here :

Clause 8. *Bonus :*

(i) No profit sharing bonus shall be paid. However, the corporation may, subject to such directions as the Central Government issue from time to time, grant any other kind of bonus to its Class III and IV employees.

(ii) An annual cash bonus will be paid to Class III and Class IV employees at the rate of 15% of the annual salary (i.e. basic pay inclusive of special pay, if any, and dearness allowance and additional dearness allowance) actually drawn by an employee in respect of the financial year to which the bonus relates.

(iii) Save as provided herein all other terms and conditions attached to the admissibility and payment of bonus shall be as laid down in the Settlement on bonus dated the 26th June 1972.

Clause 12 :

(1) This settlement shall be effective from 1st April 1973, and shall be for a period of four years, i.e., from 1st April, 1973 to 31st March, 1977.

(2) The terms of the settlement shall be subject to the approval of the Board of the Corporation and the Central Government.

(3) This Settlement disposes of all the demands raised by the workmen for revision of terms and conditions of their service.

(4) Except as otherwise provided or modified by this Settlement, the workmen shall continue to be governed by all the terms and conditions of service as set forth and regulated by the Life Insurance Corporation of India (Staff Regulations), 1960 as also the administrative instructions issued from time to time and they shall, subject to the provisions thereof including any period of operation specified therein, be entitled to the benefits thereunder.

It is important and, indeed, is an impressive feature that these two settlements cover a wide ground of which bonus is but one item.

A Equally significant is the fact that the Board of the Corporation and the Central Government, which presumably knew the scope of the LIC Act and the ID Act, did approve of these settlements.

The thought of terminating the payment of bonus to the employees covered by the 1974 settlements apparently occurred to B the Central Government a year later and the Payment of Bonus (Amendment) Ordinance, 1975, (replaced by the Payment of Bonus (Amendment) Act, 1976), was brought into force to extinguish the effect of the 1974 settlements and the claims for bonus put forward by the workers thereunder. This Act was successfully challenged and this court struck down the said legislation in *Madan Mohan Pathak* v. C *Union of India*[1] and directed the Corporation to pay to its Class III and IV employees bonus for the years 1-4-1975 to 31-3-1977. Thereupon, the Corporation issued to its workmen certain notices under s.19(2) of the ID Act and s.9A of the same Act. Likewise, the Central Government, on May 26, 1978, issued a notification D under s.49 of the LIC Act substituting a new Regulation for the old Regulation 58. All these three steps were taken to stop payment of bonus to the workmen under the two settlements and led to a challenge of their validity in the Allahabad High Court under Art. 226 of the Constitution. If the two notices and the changed Regulation were good they did deprive the workmen of their benefits of E bonus pursuant to the settlements reached under the ID Act. But the workmen contended that the proceedings under the LIC Act could not prevail against the continued flow of bonus benefits under the ID Act. The High Court (Lucknow Bench) struck down the appellant's actions as of no consequence and void and sustained the claim for bonus based on the settlements of 1974. The Corporation has come up F in appeal to this Court assailing the findings of the High Court.

The Corporation is clearly an 'industry', and the 'workmen' raised demands for bonus, the management responded constructively and for long years settlements, as envisioned by the ID Act, were entered into and the stream of industrial peace flowed smooth. G Industrial settlements marked their relations the last of which were in 1974 but a later legislation marred this situation and led to a litigation. In 1976, the Life Insurance Corporation (Modification of Settlement) Act, 1976 (for short, the 1976 Act) was enacted to abolish the efficacy of the right to bonus under the two settlements of 1974 but the challenge to its constitutionality was upheld. When the H parliamentary burial of bonus was stultified by judicial resurrection, other measures to effectuate the same purpose were resorted to, both

(1) [1978] 3 SCR 334.

under the LIC Act and the ID Act. These moves proved to be essays in futility because the High Court held that bonus was still payable, that the ID Act prevailed over the LIC Act in the area of industrial relations, the former being a special law, and that the steps taken both by the Corporation and the Central Government under the LIC Act and Regulations as well as under the ID Act, were of legal inconsequence. Against this judgment the Corporation has come up in appeal and the questions raised are of great moment and of serious portent. If law allows administrative negation of bonus, judges are not to reason why; but whether law does allow nullification of an industrial settlement is for judges to decide, not for the Administration to say, why not? That is Montesquien functionalism of sorts. So, against this backdrop, I will analyse the submissions, scan their substance and pronounce upon their validity.

I may as well formulate, in more particularised form, the various contentions urged on either side—not exhaustively though, because that has been done by my learned brothers. I propose to confine the discussion to the decisive issues. First of all, we have to investigate whether the two settlements of January 24, 1974 and February 6, 1974, arrived at in pursuance of the provisions of s. 18 read with s. 2(p) of the ID Act, have current validity, having regard to the notice given by the Management under s. 19(2) of the ID Act terminating the settlements and under s. 9A of its intention to vary the conditions of service bearing on bonus. In case the settlements do not survive the notices, the claim to bonus perishes and nothing more remains to be decided. But in case I hold that despite the intention to change the service conditions under s. 9A and determination under s. 19(2), the terms of the settlements continue to operate *until substituted by a new contract arrived at by mutual settlement or by an award,* the further issue opens as to whether a settlement under the ID Act cannot be operative since the LIC Act contains provisions vesting power in the Corporation and the Central Government to fix the terms and conditions of service of the Corporation employees and that power has been exercised to extinguish the bonus claim. The question will throw open for consideration *which statute prevails* — the ID Act or the LIC Act — when there is an apparent conflict between the two. The problem of the prevalence of a special statute at against a general statute and the determination of which, in a given situation, is the *special* statute will engage my attention at the appropriate stage. In the event of my holding that the ID Act prevails, as against the LIC Act, in the given situation, the fate of the steps taken by the Corporation and the Central Government under the LIC Act and the Regulations framed thereunder will be sealed. Of course,

A if the holding is that the ID Act cannot operate as against the LIC Act and the Regulations framed thereunder, when dealing with the terms and conditions of service of the employees of the Corporation, I may have to venture into the controversy about how effectual are the measures taken by the two statutory authorities, i.e. the Corporation and the Central Government, under the provisions of the LIC B Act and the Regulations. Every point has been emphatically contested and argued by both sides with erudite niceties. However, the judicial perspective will be the decisive factor in the ultimate analysis. For, as Brennan, J. has observed :(1)

> "The law is not an end in itself, nor does it provide ends. C It is preeminently a means to serve what we think is right."
>
> "Law is here to serve ! To serve what ? To serve, insofar as law can properly do so, within limits that I have already stressed, the realization of man's ends, ultimate and mediate. . . Law cannot stand aside from the social changes around it."

D

Judicial acceptance of social dynamics, as projected by the Constitution, is the crucial factor in this case, if I may anticipate myself.

The ID Act is a benign measure which seeks to pre-empt E are extant even after the notice under s.9A and the formal termination under s. 19(2) of the ID Act, Let me go to the basics. Before that, a glance at the nature of the two settlements, their ambit and ambience and their longevity, actual and potential, may be desirable, after sketching the broad basics of the ID Act and its means and ends.

The ID Act is a benign measure which seeks to pre-empt F industrial tensions, provides the mechanics of dispute resolutions and set up the necessary infra-structure so that the energies of partners in production may not be dissipated in counter-productive battles and assurance of industrial justice may create a climate of goodwill. Industrial peace is a national need and, absent law, order in any G field will be absent. Chaos is the enemy of creativity sans which production will suffer. Thus, the great goal to which the ID Act is geared is legal mechanism for canalising conflicts along conciliatory or adjudicatory processes. The objective of this legislation and the component of social justice it embodies were underscored in the *Bangalore Water Supply and Sewerage Board* v. *Rajappa* (2) thus :

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(1) *William J. Brennan Jr. Opinion Roth* v. *United States* 354 U.S. 476 [1958].

(2) [1978] 2 SCC 213 at 232.

To sum up, the personality of the whole statute, be it remembered, has a welfare basis, it being a beneficial legislation which protects labour, promotes their contentment and regulates situations of crisis and tension where production may be imperilled by untenable strikes and blackmail lock-outs. The mechanism of the Act is geared to conferment of regulated benefits to workmen and resolution, according to a sympathetic rule of law, of the conflicts, actual or potential, between managements and workmen. Its goal is amelioration of the conditions of workers, tempered by a practical sense of peaceful co-existence, to the benefit of both—not a neutral position but restraints on *laissez faire* and concern for the welfare of the weaker lot Empathy with the statute is necessary to understand not merely its spirit, but also its sense.

The ID Act deals with industrial disputes, provides for conciliation, adjudication and settlements and regulates the rights of parties and the enforcement of awards and settlements. When a reference is made of a dispute under s.10 or s.10A, the legal process springs into action. Under s.11 and award is made after a regular hearing if a conciliation under s.12 does not ripen into a settlement and a failure report is received. The award is published under s.17(1) and acquires finality by virtue of s.17(2) unless under s.17A(1) the appropriate government declares that the award shall not be enforceable. Section 17A(4) which is of significance reads thus :

> (4) Subject to the provisions of sub-section (1) and sub-section (3) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (1) or sub-section (3), as the case may be.

It is obvious from s. 18 that a settlement, like an award, is also binding. What I emphasise is that an award, adjudicatory or arbitral, and a settlement during conciliation or by agreement shall be binding because of statutory sanction. Section 19 relates to the period of operation of settlements and awards and here also it is clear that both settlements and awards, as is evident from a reading of s. 19(2) and (6), stand on the same footing.

Section 19 has a key role to play in the life and death of awards and settlements and so we may read the text here to enable closer comment. Particular attention must be riveted on s. 19(2), (3) and (6) :

19. (1) A settlement shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months (from the date on which the memorandum of settlement is signed by the parties to the dispute, *and shall continue to be binding on the parties after the expiry of the period* aforesaid, *until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given* by one of the parties to the other party or parties to the settlement.

(3) An award shall, subject to the provisions of this section, remain in operation for a period of one year (from the date on which the award becomes enforceable under section 17A).

Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit;

Provided further that the appropriate Government may, before the expiry of the said period, extend the period of operation by any period not exceeding one year at a time as it thinks fit so, however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

(4) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since the award was made, there has been a material change in the circumstances on which it was based, the appropriate Government may refer the award or a part of it to a Labour Court, if the award was that of a Labour Court or to a Tribunal, if the award was that of a Tribunal or of a National Tribunal, for a decision whether the period of operation should not, by reasons of such change, be shortened and the decision of Labour Court or the Tribunal, as the case may be, on such reference shall be final.

(5) Nothing contained in sub-section (3) shall apply to any award which by its nature, terms or other circumstances does not impose, after it has been given effect to any continuing obligation on the parties bound by the award.

(6) Notwithstanding the expiry of the period of operation under sub-section (3), the award shall continue to be binding on the parties until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

(7) No notice given under sub-section (2) or sub-section (6) shall have effect, unless it is given to a party representing the majority of persons bound by the settlement or award, as the case may be.

Section 9A fetters the Management's right to change the conditions of service of workmen in respect of certain matters including wages and allowances. We had better read it here :

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

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

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

It will be apparent that the ID Act substantially equates an award with a settlement, from the point of view of their legal force. No distinction in regard to the nature and period of their effect can be discerned, especially when we read s. 19(2) and (6). I highlight this virtual identity of effect to bring home the fact that judicial pronouncements on this aspect, whether rendered in a case of award or settlement, will be a guideline for us and nothing turns on whether the particular is one of an award or settlement. Indeed, there are reported cases on both.

The statutory regulation of industrial disputes is comprehensive, as is manifest from the rest of the Act. Chapter V prohibits strikes and lock-outs; Chapter VA deals with lay-off and retrenchment and Chapter VI puts teeth into the provisions by enacting penalties. Importantly, s. 29, which proceeds on the footing of equal sanctity for awards and settlements, punishes breaches :

29. Any person who commits a breach of *any term of any settlement or award,* which is binding on him under this Act shall be punishable with imprisonment for a term which may extend

A to six months, or with fine, or with both, and where the breach is a continuing one, with a further fine which may extend to two hundred rupees for every day during which the breach continues after the conviction for the first, and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compen-
B sation, to any person who, in its opinion has been injured by such breach.

There are miscellaneous provisions to take care of other resi-duary matters and we get picture of a parliamentary project designed
C to deal, not piecemeal but wholesale, with a special subject of strategic concern to the nation, viz., 'the investigation and settlement of indus-trial disputes'. Let us be perspicacious about the purpose and sensi-tive about the social focus of the ID Act in a developmental perspec-tive. Parliament has picked out the specific subject of industrial disputes for particularised treatment, whether the industry be in the
D private or public sector or otherwise. Our country, with so much leeway to make up, cannot afford paralysing processes in production of goods and services and whoever be the employer—Government, quasi-public, charitable or profit-making private enterprise-both sides viz., workmen and management shall abide by the discipline adopting the mechanics and using the machinery under the ID Act. The
E *Bangalore Water Supply and Sewerage Board case*(1) has highlighted this core truth. To lose sight of the spinal nature of the legislation, viz., industrial *disputes* and their *settlement through* law, and to regard it as a mere enactment bearing on terms and conditions of service in enterprises is to miss the distinctive genre, particular flavour and
F legislative quintessence of the ID Act.

....(Interpretation) involves far more than picking out diction-ary definitions of words or expressions used. Consideration of the context and the setting is indispensable properly to ascertain a meaning. In saying that a verbal expression is plain or un-
G ambiguous, we mean little more than that we are convinced that virtually anyone competent to understand it, and desiring fairly and impartially to ascertain its signification, would attribute to the expression in its context a meaning such as the one we derive rather than any other; and would consider any different
H meaning, by comparison, strained, or far-fetched, or unusual, or unlikely.

(1) [1978] 2 SCC 213.

> . . . . Implicit in the finding of a plain, clear meaning of an expression *in its context,* is a finding that such meaning is rational and "makes sense" in that context.(1)

Interpretative insight will suffer, even as the judicial focus will blur, if the legislative target is not sharply perceived. Indeed, I lay so much stress on this facet because brother Koshal's otherwise faultless logic has, if I may say so with great deference, failed to convince me because of this fundamental mis-focus. To repeat for emphasis, the meat of the statute is industrial dispute, *not* conditions of employment or contract of service *as such.* The line of distinction may be fine but is real.

Be that as it may, a bird's eye view of the ID Act reveals the statutory structure and legal engineering centering round dispute settlement in industries according to the rule of law and away from fight with fists or economic blackmail. This large canvas once illumined, may illustrate the sweep, of awards and settlements by reference to the very agreement of 1974 we have before us. It goes far beyond bonus and embraces a wide range of disputes and rainbow of settlements in a spirit of give and take. One may visualise the bargaining process. Give in a little on bonus and get a better deal on salary scale or promotion prospects; relent a wee-bit on hours of work but bargain better on housing facilities, and so on. The soul of the statute is *not* contract of employment, uniformity of service conditions or recruitment rules, but conscionable negotiations, conciliations and adjudications of disputes and differences animated by industrial justice, to avoid a collision which may spell chaos and imperil national effort at increasing the tempo of production.

If there is no dispute, the ID Act is out of bounds, while the LIC Act applies *generally* to all employees from the fattest executive to the frailest manual worker and has no concern with industrial disputes. The former is a 'war measure' as it were; the latter is a routine power when swords are not drawn if we may put it metaphorically. When disputes break out or are brewing, a special, sensitive situation fraught with frayed tempers and fighting postures springs into existence, calling for special rules of control, conciliatory machinery, demilitarising strategies and methods of investigation, interim arrangements and final solutions, governed by special criteria for promoting industrial peace and justice. The LIC Act is not a law for

(1) *Hutton* v. *Phillips* 45 Del. 156, 160, 70 A. 2d 15, 17 (1949). *Also Interpretation and Application of Statutes by Reed Dickerson,* p. 231.

A employment or disputes arising therefrom, but a nationalisation measure which incidentally, like in any general take-over legislation, provides for recruitment, transfers, promotions and the like. It is *special vis-a-vis* nationalisation of life insurance but *general* regarding contracts of employment or acquiring office buildings. Emergency measures are special, for sure. Regular nationalisation statutes are general even
B if they incidentally refer to conditions of service.

The anatomy of the 1974 settlements is no more confined to bonus than the physiology of man is limited to bones. It is an integral, holistic and delicately balanced ensemble of clauses, with cute calculations and hard bargaining on many matters. To dissect is to murder,
C in the art of true poetry as in the craft of settlement in industry; and, therefore, it is impermissible to single out a clause and extinguish it as the totality is a living entity which does not permit of dismemberment, limb by limb, without doing violence to the wholeness and identity of the settlement. Here, the 1974 settlements have brought about a conflict-resolution on a variety of items including (a) scales
D of pay, (b) method of fixation in the new scales, (c) dearness allowance, (d) house rent allowance, (e) city compensatory allowance, etc. Thus bonus is but one component of a multi-point agreement. Para 12 of the Settlement has some significance :

> 12. *Period of Settlement.*—(1) This Settlement shall be
> E effective from 1st April, 1973 and shall be for a period of four years, i.e., from 1st April, 1973 to 31st March, 1977.
>
> (2) The terms of the settlement shall be subject to the approval of the Board of the Corporation and the Central Government.
>
> (3) This Settlement disposes of all the demands raised by
> F the workmen for revision of terms and conditions of their service.
>
> (4) Except as otherwise provided or modified by this Settlement, the workmen shall continue to be governed by all the terms and conditions of service as set forth and regulated by the Life Insurance Corporation of India (Staff) Regulations,
> G 1960 as also the administrative instructions issued from time to time and they shall, subject to the provisions thereof including any period of operation specified therein, be entitled to the benefits thereunder.

Likewise, the preamble has a purpose :

> H WHEREAS the parties representing the workmen, namely :
>
> 1. All India Insurance Employees Association ;
>
> 2. All India LIC Employees Federation ;

3. All India Life Insurance Employees Association and A
4. National Organisation of Insurance Workers.

(hereinafter called the said Associations) submitted their Charter of Demands to the Life Ins. Corpn. of India (hereinafter called the Corporation) for revision of the scales of pay, allowances and other terms and conditions of service after the B expiry of the award of the National Industrial Tribunal New Delhi on 31st March, 1973 :

AND WHEREAS the Corpn. has carried on negotiations with the said Associations between the period July 1973 and January 1974 at which there has been free and frank exchange C of views in regard to various matters including the obligations of the Corpn. to the policy-holders and the community ;

AND WHEREAS the said Associations solemnly agree to cooperate with the management in maintaining discipline and in its endeavour to effect utmost economy in administration and to improve efficiency and productivity so as to ensure that the D growth in profitability is maintained which alone will enable the Corpn. (i) to safeguard and (ii) to meet the legitimate demands of the employees for wage revision.

AND WHEREAS the said Associations further agree that the management may issue administrative instructions in the E interest of maintaining discipline and peaceful atmosphere in the office.

NOW THEREFORE it is hereby agreed by and between the parties hereto is as follows :

What stand out prominently in this Memorandum of Settlement F are :

(a) There was a previous settlement and new negotiations were started in the light of new demands for a substitutions of the earlier settlement by a new settlement without leaving an interragnum of vacuum.

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(b) There was a plurality of items unconnected with bonus as such and the overall settlement is a composite fabric ; and

(c) There is specific reference to the LIC (Staff) Regulations, 1960, and, so far as the Settlement provided, it prevailed over the Regulations and so far as the Settlement did not cover a topic the Regulations governed, thus making it clear H that the Settlements did not become subordinate to the Regulations.

A The core question that first falls for consideration is as to whether the Settlements of 1974 are still in force. There are three stages or phases with different legal effects in the life of an award or settlement. There is a specific period contractually or statutorily fixed as the period of operation. Thereafter, the award or settlement does not become *non est* but continues to be binding. This is the second chapter
B of legal efficacy but qualitatively different as we will presently show. Then comes the last phase. If notice of intention to terminate is given under s. 19(2) or 19(6) then the third stage opens where the award or the settlement does survive and is in force between the parties as a contract which has superseded the earlier contract and
C subsists until a new award or negotiated settlement takes its place. Like Nature, Law abhors a vacuum and even on the notice of termination under s. 19(2) or (6) the sequence and consequence cannot be just void but a continuance of the earlier terms, but with liberty to both sides to raise disputes negotiate settlements or seek a reference and award. Until such a new contract or award replaces the previous
D one, the former settlement or award will regulate the relations between the parties. Such is the understanding of industrial law atleast for 30 years as precedents of the High Courts and of this court bear testimony. To hold to the contrary is to invite industrial chaos by an interpretation of the ID Act whose primary purpose is to obviate such a situation and to provide for industrial peace. To distil from
E the provisions of s. 19 a conclusion diametrically opposite of the objective, intendment and effect of the Section is an interpretative stultification of the statutory ethos and purpose. Industrial law frowns upon a lawless void and under general law the contract of service created by an award or settlement lives so long as a new lawful contract is brought into being. To argue otherwise is to frustrate the
F rule of law. If law is a means to an end—order in society—can it commit functional harakiri by leaving a conflict situation to lawless void?

Now we will move on to the precedents on the point which have been summed up by Malhotra thus: (1)

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> (3) *Effect of termination of award under s.* 19(6) *on rights and obligations of parties.*—Termination of an award by either party under s. 19(6) does not have the effect of extinguishing the rights flowing therefrom. The effect of termination of an award is only to prevent thereafter the enforcement of the obligation
> H under it in the manner prescribed, but the rights and obligations which flow from it are not wiped out. Evidently, by the termination

(1) Malhotra, The Law of Industrial Disputes, 2nd Edn. Vol. I p. 656.

of an award, the contract of employment is not terminated, the obligations created by the award or contract could be altered by a fresh adjudication or fresh contract.(1). A

In *Judhisthir Chandra* v. *Mukherjee*(2) the position as stated above was accepted as correct by the High Court. A Division Bench of the Bombay High Court in *Mangaldas Narandas* v. *Payment of Wages Authority etc.*(3) (Shah and Gokhale, JJ) came to the same conclusion and neatly summed up the sequence of triple stages and the difference in legal consequences, and upholding the contention that *even after termination of an award under s.* 19(6) *the terms incorporated in the award continued as a contract between the parties.* So much so, no reversion to the pre-award position was permissible on the part of the employer. The head-note which is sufficiently lucid and luminous, sums up the ratio thus : B C

> Where an award is delivered by the industrial tribunal it has the effect of imposing a statutory contract governing the relations of the employer and the employee. It is true that statutory contract may be terminated in the manner prescribed by s. 19(6) of the Industrial Disputes Act. After the statutory contract is terminated by notice, the employer by failing to abide by the terms of the award does not incur the penalties provided by the Industrial Disputes Act, nor could the award be enforced in the manner prescribed by s. 20 of the Industrial Disputes (Appellate Tribunal) Act, 1950. But the termination of the award has not the effect of extinguishing the rights flowing therefrom. Evidently by the termination of the award the contract of employment is not terminated. The employer and the employee remain master and servant in the industry in which they are employed, unless by notice the employer has also simultaneously with the termination of the award terminated the employment of the employee. If the employment is not terminated, it is difficult to hold that the rights which had been granted under the award automatically cease to be effective from the date on which notice of termination of the award becomes effective. The effect of termination of the award is only to prevent enforcement of the obligations under D E F G

(1) *Workmen of New Elphinstone Theatre* v. *New Elphinstone Theatre* [1961] 1 LLJ 105 (119) (Mad); *Mangaldas Narandas* v. *Payment of Wages Authority* [1957] II LLJ 256 (Bombay); Yamuna Mills Co. Ltd. v. Majdoor Mahajan Mandal [1957] I LLJ 620 (Bom). H

(2) AIR 1950 Cal. 577.

(3) [1957] II LLJ 256.

A the award in the manner prescribed, but the rights and obligations which flow from the award are not wiped out. Termination of the award or lapsing of the award has not the effect of wiping out the liabilities flowing under the award.

B An award has the effect of imposing fresh terms upon the contract of employment between the employer and the employee to which they have been assented. *The termination of such award does not terminate the contract. Even after the award is terminated* in the manner provided by s. 19(6) of the Industrial Disputes Act, the *obligation created by the award could be altered by a fresh contract* or a fresh adjudication under the Industrial Disputes Act *and not otherwise.*

The Industrial Disputes Act has been enacted with the object of securing harmonious relations in the working of the industry between the employer and the employees by providing a machinery for adjudication of disputes between them ; *and the object of the legislature would be frustrated if after every few months by unilateral action the employer or the employees may be entitled to reopen the dispute and ignore the obligations* declared to be binding by the process of adjudication.

(emphasis added)

There is a remarkable continuity in the Bombay High Court (a jurisdiction where industrial unrest is a sensitive issue) because we find that another Division Bench interpreting similar provisions in the Bombay Industrial Relations Act has been persuaded by the same reasoning, well brought out in the Head Note which we excerpt :(1)

> The result of the award ceasing to have effect on notice of termination being given under s. 116(1) of the Bombay Industrial Relations Act is that the award ceases to exist. The result of the award ceasing to have effect is that it is open to either party to give a notice of change under s. 42 of the Act and attempt to bring about a change. Further it is open to the employer in cases in which he could bring a change without a notice of change such as matters enumerated in Sch. III to the Act to bring about a change, because the impediment placed in his way by s. 46(3) is removed. *But until a change is brought about* by the act either of employer or the employee after following relevant provisions in

(1) *Yomuna Mills Co. Ltd.* v. *Majdoor Mahajan Mandal, Baroda & Ors.* 1957 I LLJ 620.

the Bombay Industrial Relations Act, 1946, *the award that exists, shall continue to regulate the relations* between the employer and the employees. *The effect of termination of an award is not that the rights which flow from that award cease to be available to the employees, but the effect of termination is that the award continues to govern the relations between the employer and the employees until such time as a change is effected in accordance with the provisions of the Bombay Industrial Relations Act,* 1946.

(emphasis added)

Indeed, the precise submission that upon termination by notice, the award ceased to have effect for all purposes and the employees were not entitled to benefit thereunder *was raised and examined as a matter of great importance to industrial relations.* The court, in our view rightly rejected the contention of the employer and with forceful precision argued to reach the conclusion which the only sensible solution :(1)

> What this sub-section in effect provides is that if a notice of termination is given by either party to the award, then on the expiry of two months from the date of such notice the registered agreement, settlement or award shall cease to have effect..... But the question that we have been called upon to determine goes a little further than that and *the question is by what is the relationship between the employers and the employees regulated after an award is terminated? .Does termination of the award create a vacuum and leave the employees to the tender mercy of the employer ? Does it, by providing that the award shall cease to have effect, get rid of the award so as to bring about the result that any agreement that governed the relations of the parties prior to the date of the award is thereby revived;* or does it preserve such rights as the employees have, prior to the date of termination, already enjoyed under the award or *does it preserve the whole of the award until it is changed by the procedure prescribed by the Bombay Industrial Relations Act for a change? Now, quite obviously it would not be possible for any court to take the view that the termination of the award creates a vacuum* in which the employees are at the tender mercy of the employer; nor does it appear to us to be possible to hold that by terminanation of the award the contract or agreement that governed the relations of the employer and the employees prior to the award is in some manner revived. Initially that contract or agreement had binding effect; but it ceased to have such effect on the award

(1) 1957 I LLJ 620 at 623-624.

taking effect and the moment the award became binding on the parties, the antecedent contract or agreement was superseded by the award. It is not a case of an antecedent contract or agreement being suspended, because there is no provision for suspension which can even be spelt out from any of the sections of the Bombay Industrial Relations Act. *The award, or as the case may be, a registered agreement or a settlement under the Bombay Industrial Relations Act has obviously the effect of superseding the contract or agreement that existed and that regulated the relations between the employer and the employees prior to the registered agreement, settlement or award taking effect under the provisions of the Act.* Then we come to the next possibility : Is only so much of the award preserved as relates to the rights already enjoyed by the employees before the termination of the award ? We find it difficult so to hold. There is no principle or logic in dealing with an award in this piecemeal manner and preserving rights that have already been actually enjoyed and destroying those which, although they may have accrued, have to be enjoyed in future in terms of the award. Mr. Patel for the petitioners has argued that on the termination of the award the effect or rather the result that is brought about is that the rights of parties are frozen as of that date. Assuming such a concept of freezing the rights was adopted, even the freezing would be in respect of rights that have already accrued and it is not quite easy to conceive of rights which would not accrue to an employee under an industrial award and which can only be contingent. *In any event, if the original contract or agreement has been superseded by the award, holding that the award is no longer what governs the relations between the employer and the employees would necessarily create a vacuum.* Trying to save the creation of a vacuum by splitting up the award into two parts, the award under which benefits have already been enjoyed and that part of the award under which benefits have not been enjoyed, is dissecting the award in a manner not justified in law or logic. There appears to be on the scene after the termination of the award only one thing that can govern the relations between the employer and the employees and that undoubtedly can be nothing else than the award itself. *The result of the award ceasing to have effect is not that the award ceases to exist ; the result of the award ceasing to have effect is, as I have already pointed out, that it is open to either party to give a notice of change and to attempt to bring about a change.*

(emphasis added)

In the Madras jurisdiction the same view has prevailed as is apparent from 1961 I LLJ 105, 1971 I LLJ 310 and 1978 I LLJ 227. A Division Bench of that Court in *Sathya Studios case*(1) stressed the purpose of the ID Act and the preference for that interpretation which will advance that purpose. The Head Note brings out the holding correctly :

> .....a combined reading of s. 18(3), sub-ss. (1) to (3) and (6) of s. 19, s. 23 and s. 29 leave no doubt that, bring about, conserve and promote industrial peace, the termination of an award under s. 19(6) does not mean that the terms and conditions evolved by it and applied to the industrial relations concerned would be set at large. *All that the termination under s.* 19(6) *would mean is that, thereafter, the parties will be at liberty to raise a fresh industrial dispute if there is a basis therefor. But, so long as the award terminated under s.* 19(6) *has not been substituted by an award, the industry concerned has to proceed on the basis that the terms and conditions of the award would continue to govern the terms of employment.*
>
> (emphasis added)

We need not labour the point further because we are bound, precedentially speaking, by three decisions of this Court. *Chacko's case,* (2) in a clinching passage, settles the proposition and the *Indian Oil Corporation case*(3) adopts a reasoning compelling the same conclusion even like *Mohd. Quasim Larry*(4) has done. Das Gupta, J. speaking for a Bench of three judges studies the statutory scheme bearing on the triple periods after an award came into being and indicated, by purposive interpretation of the relevant provisions, the legal stages of the life of an award. After quoting s. 19(6) of the ID Act, the Court observed(5) :

> This makes it clear that *after the period of operation of an award has expired, the award does not cease to be effective.* For, it continues to be binding thereafter on the parties until notice has been given by one of the parties of the intention to terminate it and two months have elapsed from the date of such notice.

(1) *Sathya Studios* v. *Labour Court* 1978 I LLJ 227

(2) *South Indian Bank Ltd.* v. *A. R. Chacko* [1964] 4 SCR 625

(3) *Management of Indian Oil Corpn. Ltd.* v. *Its Workmen* [1976] 1 SCR 110

(4) *Md. Qasim Larry, Factory Manager, Sasamusa Sugar Works* v. *Md. Samsuddin & Anr.* [1964] 7 SCR 419

(5) [1964] 4 SCR 625 at 630-31

A The effect of s. 4 of the Industrial Disputes (Banking Companies) Decision Act is that the award ceased to be in force after March 31, 1959. That however has nothing to do with question as to the period for which it will remain binding on the parties thereafter. The provision in s. 19(6) as regards the period for which the award shall continue to be binding on the parties is not in any B way affected by s. 4 of the Industrial Disputes (Banking Companies) Decision Act, 1955.

Quite apart from this, however, it appears to us that even if an award has ceased to be in operation or in force and has ceased to be binding on the parties under the provisions of C *s.* 19(6) *it will continue to have its effect as a contract between the parties that has been made by industrial adjudication in place of the old contract. So long as the award remains in operation under s.* 19(3), *s.* 23(*c*) *stands in the way of any strike by the workmen and lock-out by the employer in respect of any matter covered by the award. Again, so long as the award is binding* D *on a party, breach of any of its terms will make the party liable to penalty under s.* 29 *of the Act,* to imprisonment which may extend to six months or with fine or with both. After the period of its operation and also the period for which the award is binding have elapsed s. 23 and s. 29 can have no operation. *We can* E *however see nothing in the scheme of Industrial Disputes Act to justify a conclusion that merely because these special provisions as regards prohibition of strikes and lock-outs and of penalties for breach of award cease to be effective the new contract as embodied in the award should also cease to be effective. On the contrary, the very purpose for which industrial* F *adjudication has been given the peculiar authority and right of making new contracts between employers and workmen makes it reasonable to think that even though the period of operation of the award and the period for which it remains binding on the parties may elapse*—in respect of both of which special provisions have been made under ss. 23 and 29 respectively— G *the new contract would continue to govern the relations between the parties till it is displaced by another contract.* The objection that no such benefit as claimed accrue to the respondent after March 31, 1959 must therefore be rejected.

(emphasis added)

H The power of reasoning, the purpose of industrial jurisprudence and the logic of the law presented with terse force in this pronouncement cannot be missed. The new contract which is created by an

award continued to govern the relations between the parties *"till it is displaced by another contract."*

Another Bench of three judges, speaking through Chief Justice Gajendragadkar, in *Md. Quasim Larrys case*(1) has ratiocinated on similar lines :

> *When an award is made* and it prescribes a new wage structure, *in law the old contractual wage structure becomes inoperative and its place is taken by the wage structure prescribed by the award. In a sense, the latter wage structure must be deemed to be a contract between the parties* because that, in substance, is the effect of industrial adjudication. *The true legal position is that when industrial disputes are decided by industrial adjudication and awards are made, the said awards supplant contractual terms in respect of matters covered by them and are substituted for them....* In this connection, we may incidentally refer to the decision of this Court in the *South Indian Bank Ltd.* v. *A. R. Chacko*(2) where it has been observed by this Court that the very purpose for which industrial adjudication has been given the peculiar authority and right of making new contracts between employers and workmen makes it reasonable to think that even though the period of operation of the award and the period for which it remains binding on the parties may elapse—in respect of both of which special provisions have been made under sections 23 and 29 respectively—the new contract would continue to govern the relations between the parties till it is replaced by another contract. This observation clearly and emphatically brings out that the terms prescribed by an award, in law, and in substance, constitute a fresh contract between the parties.
>
> (emphasis added)

Again, a Bench of four Judges in the *Indian Oil Corporation case*(3) reiterated the same principle in the context of s. 9A of the ID Act although the court did not specifically advert to *Chacko's case* (supra). In the *Indian Oil Corporation case* (supra) the question turned on the management seeking to effect changes in the service

(1) *Md. Qasim Larry, Factory Manager, Sasamusa Sugar Works* v. *Md. Samsuddin & Anr* [1964] 7 SCR 419 at 422

(2) *South Indian Bank Ltd.* v. *A. R. Chacko* [1964] 4 SCR 625.

(3) *Management of Indian Oil Corporation Ltd.* v. *Its workmen* [1976] 1 SCR 110

A conditions of the workmen. The Court made observations which have pertinence to the non-extinguishment of the contract of service until a negotiated or adjudicated substitution comes into being. Fazal Ali, J. speaking for the bench observed :(1)

> In the circumstances, therefore, s. 9A of the Act was clearly
> B applicable and the non-compliance with the provisions of this section would undoubtedly raise a serious dispute between the parties so as to give jurisdiction to the tribunal to give the award. *If the appellant wanted to withdraw the Compensatory Allowance it should have given notice to the workmen, negotiated the matter with them and arrived at some settlement instead of withdrawing*
> C *the compensatory allowance overnight.*
>
> (emphasis added)

This ruling shows (a) that unilateral variation by the management is an exercise in futility, and (b) an award or settlement must take the
D place of the contract sought to be varied. We have a similar situation in the present case *vis-a-vis* the notice under s. 9A and the ruling in the *Indian Oil case* (supra) is a helpful guide.

A passing reference was made to a possible difference between an award and a settlement when it comes to termination of the terms.
E We have indicated already that a closer study of the scheme of the ID Act shows the distinction, if any, to be no more than between Tweedledum and Tweedledee. A Division Bench of the Bombay High Court had occasion to examine the effect of a notice under s. 19(2) of the ID Act in terminating a settlement and that ruling deserves special mention because it deals with the the survival beyond the two-
F months notice of termination of a *settlement* (not an award). Tarkunde J, speaking for the Bench and following *Chacko's case* (supra) observed in the context of notice to terminate the settlement under s. 19(2) :(2)

> Even if a notice of its intention to terminate the settlement
> G was given by either party, the settlement did not automatically cease to be operative on the expiry of two months from the date of the notice. The legal position is that the terms of a settlement continue to govern the relations between the parties after the notice of termination and the expiry of two months thereafter, *until the settlement is replaced by a valid contract or award*

H

(1) [1976] 1 SCR 110 at 117

(2) *Maruti Mahipati Mullick & Anr.* v. *M/s Polson Ltd. & Anr.* 1970 Lab. I. C. 308 at 310

between the parties. This was laid down by the Supreme Court in *South Indian Bank Ltd.* v. *Chacko* [1964] 1 LLJ 19—AIR 1964 SC 1522, while dealing with the binding effect of an award under the provisions contained in sub-section (6) of section 19 of the Industrial Disputes Act. The Authority in the present case was, therefore, not justified in rejecting the workmen's application on the ground that the settlement on which the workmen relied had ceased to be operative.

(emphasis added)

A precedent, as Disraeli said, embalms a principle. We have pointed out the principle and cited the precedents. There is more to it than mere wealth of precedents or what Burke called 'the deep slumber of a decided opinion'. It enlivens industrial peace, avoids labour discontent and helps to set the stage for next negotiations for better terms for workers. Economic freedom of the weaker sections is behind these precedents, almost reminding us of Tennyson :

A land of settled government,
A land of just and old renown,
Where freedom slowly broadens down,
From precedent to precedent.

The law is lucid and the justice manifest on termination notice or notice of change the award or settlement does not perish but survives to bind until reincarnation, in any modified form, in a fresh regulation of conditions of service by a settlement or award. Precedents often broadly guide but when on the same point willy-nilly bind. So here, even if I would, I could not and even if I could, I would not depart from the wisdom in *Chacko's case* (supra) with consistent case-flow-before and after. An aching void, an abhorrent vacuum, a legicidal situation of industrial clash cannot be a judicial bonus when the constitutional command is social justice.

The catena of cases we have briefly catalogued discloses an unbroken stream of case-law binding on this court, the ratio whereof, even otherwise, commends itself to us. The award or settlement under the ID Act replaces the earlier contract of service and is given plenary effect as between the parties. It is not a case of the earlier contract being kept under suspended animation but suffering supersession. Once the earlier contract is extinguished and fresh conditions of service are created by the award or the settlement, the inevitable consequence is that even though the period of operation and the span of binding force expire, on the notice to terminate the contract being given, the said

A contract continues to govern the relations between the parties until a new agreement by way of settlement or statutory contract by the force of an award takes its place. If notice had not been given, the door for raising an industrial dispute and fresh conditions of service would not have been legally open. With action under s. 9A, s. 19(2) or (6), the door is ajar for disputes being raised and B resolved. This, in short, is the legal effect not the lethal effect of invitation to industrial trial of strength with no contract of service or reversion to an obsolete and long ago 'dead' contract of service.

It is inconceivable that any other alternative subsists. For instance, imagine a case where for 30 years an award or settlement C might have given various benefits to employees and at the end of 30 years a notice terminating the settlement were given by the employer. Does industrial law absurdly condemn the parties to a reversion to what prevailed between them 30 years ago? If the employees were given Rs. 100 as salary in 1947 and, thereafter, by awards and settlements the salary scale was raised to Rs. 1000 could it be the D Management might, by unilateral yet disastrous action give notice under s. 19(2) or (6) terminating the settlement or award, tell the workers that they would be paid Rs. 100 which was the original contract although in law that contract had been extinguished totally by a later contract of settlement or by force of an award? The horrendous consequences of such an interpretation may best be left to imagination. E Moreover, if industrial peace is the signature tune of industrial law, industrial violence would be the vicious shower of consequences if parties were relegated either to an ancient and obsolete contract or a state of lawless hiatus. No canon of interpretation of statutes can compel the court to construe a statutory provision in this manner. We F have, no doubt, that the precedents on the point, the principles of industrial law, the constitutional sympathy of Part IV and the sound rules of statutory construction converge to the same point that when a notice intimating termination of an award or settlement is issued the legal import is merely that the stage is set for fresh negotiations or industrial adjudication and until either effort ripens into a fresh set of conditions G of service the previous award or settlement does regulate the relations between the employer and the employees. The court never holds justice as hostage with law as janitor! Law, if at all, liberates justice through the judicial process. Fundamental error can be avoided only by remembering fundamental values.

At this stage I may record my firm conclusion that for the reasons H already given the settlement under the ID Act does not suffer death merely because of the notice issued under s. 19(2). 'All that is done is a notice "intimating its intention to terminate the award". The

award even if it ceases to be operative *qua* award, continues *qua* contract. Therefore, if the ID Act regulates the jural relations between the LIC and its employees—an 'if' we will presently scan—then the rights under the settlements of 1974 remain until replaced by a later award or settlement.

In my view, to reverse the High Court's holding will be to disregard the consistent current of case-law—a step I hesitate to take in the sensitive area of labour relations under a Constitution with social justice slant. Lord Herscheli in *Russell* v. *Russell* [1897] AC 395 observed :(1)

> I have no inclination towards a blind adherence to precedents. I am conscious that the law must be moulded by adapting it on established principles to the changing conditions which social development involves.

The next logical question then is as to whether the ID Act is a general legislation pushed out of its province because of the LIC Act, a special legislation in relation to the Corporation employees. Immediately, we are confronted with the question as to whether the LIC Act is a special ligislation or a general legislation because the legal maxim *generalia specialibus non derogant* is ordinarily attracted where there is a conflict between a special and a general statute and an argument of implied repeal is raised. Craise states the law correctly :(2)

> The general rule, that prior statutes are held to be repealed by implication by subsequent statutes if the two are repugnant, is said not to apply if the prior enactment is special and the subsequent enactment is general, the rule of law being, as stated by Lord Selbourne in *Mary Seward* v. *Veera Cruz*(3) "that where there are general words in a later Act capable of reasonable and sensible application without extending them to subjects specially dealt with by earlier legislation, you are not to hold that earlier and special legislation indirectly repealed, altered, or derogated from merely by force of such general words, without any indication of a particular intention to do so." "There is a well-known rule which has application to this case, which is that a subsequent general Act does not affect a prior special Act by implication. That this is the law cannot be doubted, and the cases on the subject will be found collected in the third edition of Maxwell is *generalia specialibus non derogant*—i.e. general

(1) Robert Stevens, Law and Politics, p. 92, f.n. 83.

(2) Craise on Statute Law, 1963 Edn. pp. 376-7.

(3) [1884] 10 AC 59, 68.

provisions will not abrogate special provisions. "When the legislature has given its attention to a separate subject and made provision for it, the presumption is that a subsequent general enactment is not intended to interfere with the special provision unless it manifests that intention very clearly. Each enactment must be construed in that respect according to its own subject-matter and its own terms.

The crucial question which demands an answer before we settle the issue is as to whether the LIC Act is a special statute and the ID Act a general statute so that the latter *pro tanto* repeals or prevails over the earlier one. What do we mean by a special statute and, in the scheme of the two enactments in question, which can we regard as the special Act and which the general? An implied repeal is the last judicial refuge and unless driven to that conclusion, is rarely restored to. The decisive point is as to whether the ID Act can be displaced or dismissed as a general statute. If it can be and if the LIC Act is a special statute the proposition contended for by the appellant that the settlement depending for its sustenance on the ID Act cannot hold good against s. 11 and s. 49 of the LIC Act, read with Reg. 58 thereunder. This exercise constrains me to study the scheme of the two statutes in the context of the specific controversy I am dealing with.

There is no doubt that the LIC Act, as its long title suggests, is an Act to provide for the nationalisation of life insurance business in India by transferring all such business to a Corporation established for the purpose and to provide for the regulation and control of the business of the Corporation and for matters connected therewith or incidental thereto. Its primary purpose was to nationalise private insurance business and to establish the Life Insurance Corporation of India. Inevitably, the enactment spelt out the functions of the Corporation, provided for the transfer of existing life insurance business to the Corporation and set out in detail how the management, finance, accounts and audit of the Corporation should be conducted. Incidentally, there was provision for transfer of service of existing employees of the insurers to the Corpoartion and, sub-incidentally, their conditions of service also had to be provided for. The power to make regulations covering all matters of management was also vested in appropriate authorities. It is plain and beyond dispute that so far as nationalisation of insurance business is concerned, the LIC Act is a special legislation, but equally indubitably, is the inference, from a bare perusal of the subject, scheme and sections and understanding of the anatomy of the Act that it has nothing to do with the particular problem of *disputes between employer and*

employees, or investigation and adjudication of such disputes. It does not deal with workmen and disputes between workmen and employers or with industrial disputes. The Corporation has an army of employees who are not workmen at all. For instance, the higher echelons and other types of employees do not fall within the scope of workmen as defined in s. 2(s) of the ID Act. Nor is the Corporation's main business investigation and adjudication of labour disputes any more than a motor manufacturer's chief business is spraying paints !

In determining whether a statute is a special or a general one, the focus must be on the principal subject matter plus the particular perspective. For certain purposes, an Act may be general and for certain other purposes it may be special and we cannot blur distinctions when dealing with finer points of law. In law, we have a cosmos of relativity, not absolutes—so too in life. The ID Act is a special statute devoted wholly to investigation and settlement of industrial disputes which provides definitionally for the nature of industrial disputes coming within its ambit. It creates an infrastructure for investigation into, solution of and adjudication upon industrial disputes. It also provides the necessary machinery for enforcement of awards and settlements. From alpha to omega the ID Act has one special mission—the resolution of industrial disputes through specialised agencies according to specialised procedures and with special reference to the weaker categories of employees coming within the definition of workmen. Therefore, with reference to industrial disputes between employers and workmen, the ID Act is a special statute, and the LIC Act does not speak at all with specific reference to workmen. On the other hand, its powers relate to the general aspects of nationalisation, of management when private businesses are nationalised and a plurality of problems which, incidentally, involve transfer of service of existing employees of insurers. The workmen *qua* workmen and industrial disputes between workmen and the employer as such, are beyond the orbit of and have no specific or special place in the scheme of the LIC Act. And whenever there was a dispute between workmen and management the ID Act mechanism was resorted to.

What are we confronted with in the present case, so that I may determine as between the two enactments which is the special ? The only subject which has led to this litigation and which is the bone of contention between the parties is *an industrial dispute between the Corporation and its workmen* qua *workmen.* If we refuse to be obfuscated by legal abracadabra and see plainly what is so obvious, the conclusion that flows, in the wake of study I have made, is that

A *vis a vis* 'industrial disputes' at the termination of the settlement as between the workmen and the Corporation the ID Act is a special legislation and the LIC Act a general legislation. Likewise, when compensation on nationalisation is the question, the LIC Act is the special statute. An application of the *generalia* maxim as expounded by English text-books and decisions leaves us in no doubt that the ID
B Act being special law, prevails over the LIC Act which is but general law.

I am satisfied in this conclusion by citations but I content myself with a recent case where this Court tackling a closely allied question came to the identical conclusion.(1) The problem that arose there
C was as to whether the standing orders under the Industrial Employment (Standing Orders) Act, 1946, prevailed as against Regulations regarding the age of superannuation made by the Electricity Board under the specific power vested by s. 79(c) of the Electricity (Supply) Act, 1948 which was contended to be a special law as against the Industrial Employment (Standing Orders) Act. This court (a bench
D of three judges) speaking through Chinnappa Reddy, J. observed :(2)

> The maxim *"Generalia specialibus non derogant"* is quite well known. The rule flowing from the maxim has been explained in *Mary Seward* v. *The owner of the Veera Cruz* (3) as follows :
>
> E "Now if anything be certain it is this, that where there are general words in a later Act *capable of reasonable and sensible application without extending them to subjects specially dealt with by earlier legislation, you are not to hold that earlier and special legislation indirectly repealed, altered, or derogated from merely by force*
> F *of such general words,* without any indication of a particular intention to do so."

In *J. K. Cotton Spinning & Weaving Mills Co. Ltd.* v. *State of Uttar Pradesh* this Court observed (at page 1174) (4)

> "The rule that general provisions should yield to specific provisions is not an arbitrary principle made by lawyers and
> G judges but springs from the common understanding of men and women that when the same person gives two directions one covering large number of matters in general and another to only some of them his intention is that these latter directions should

(1) *UP State Electricity Board* v. *H. S. Jain* [1979] 1 SCR 355.

H (2) *Ibid* at 365-66.

(3) [1884] 10 AC 59 at 68.

(4) AIR 1961 SC 1170 at 1174.

prevail as regards these while as regards all the rest the earlier direction should have effect."

We have already shown that the Industrial Employment (Standing Orders) Act is a special Act dealing with a specific subject, namely with conditions of service, enumerated in the Schedule, of workmen in industrial establishments. It is impossible to conceive that Parliament sought to abrogate the provisions of the Industrial Employment (Standing Orders) Act embodying as they do hardwon and precious rights of workmen and prescribing as they do an elaborate procedure, including a quasi-judicial determination, by a general, incidental provision like sec. 79(c) of the Electricity (Supply) Act. It is obvious that Parliament did not have before it the Standing Orders Act when it passed the Electricity (Supply) Act and Parliament never meant that the Standing Orders Act should stand *pro tanto* of the view that the provisions of the Standing Orders Act repealed by Sec. 79(c) of the Electricity Supply Act. We are clearly of the view that the provisions of the Standing Orders Act must prevail over s. 79(c) of the Electricity Supply Act, in regard to matters to which the Standing Orders Act applies.

I respectfully agree and apply the reasoning and the conclusion to the near-identical situation before me and hold that the ID Act relates specially and specifically to industrial disputes between workmen and employers and the LIC Act, like the Electricity (Supply) Act, 1948, is a general statute which is silent on workmen's disputes, even though it may be a special legislation regulating the take-over of private insurance business.

A plausible submission was made by the appellants, which was repelled by the High Court, that the LIC Act contained provisions regarding conditions of service of employees and they would be redundant if the ID Act was held to prevail. This is doubly fallacious. For one thing, the provisions of ss. 11 and 49 are the usual general provisions giving a statutory corporation (like a municipality or university) power to recruit and prescribe conditions of service of its total staff—not anything special regarding '*workmen*'. This *Court in Bangalore Water Supply* and *Sewerage case* (7 judges' bench) (1) and long ago in *D. N. Banerji* v. *P. R. Mukherjee & Ors* (5 judges' bench) (2) has held that the ID Act applied to workmen

(1) *Bangalore Water Supply and Sewerage Board* v. *Bajappa* [1978] 2 SCC 213.

(2) [1953] SCR 302.

A employed by those bodies when disputes arose. The general provision would still apply to other echelons and even to workmen if no industrial dispute was raised. Secondly, no case of redundant words arose because the Corporation, like a University, employed not only workmen but others also and to regulate their conditions of service, power was needed. Again, in situations where no dispute arose, power
B in the employer to fix the terms of employment had to be vested. This is a common provision of a general sort, not a particularised provision to canalise an industrial dispute.

What is special or general is wholly a creature of the subject and context and may vary with situation, circumstances and angle of vision.
C Law is no abstraction but realises itself in the living setting of actualities. Which is a special provision and which general, depends on the specific problem, the topic for decision, not the broad rubric nor any rule of thumb. The peaceful co-existence of both legislations is best achieved, if that be feasible, by allowing to each its allotted field for play. Sense and sensibility, not mechanical rigidity gives the flexible
D solution. It is difficult for me to think that when the entire industrial field, even covering municipalities, universities, research councils and the like, is regulated in the critical area of industrial disputes by the ID Act, Parliament would have provided as oasis for the Corporation where labour demands can be unilaterally ignored. The general words in ss. 11 and 49 must be read contextually as not covering
E industrial disputes between the workmen and the Corporation. Lord Haldane had, for instance, in 1915 AC 885 (891) observed that (1) :

> "general words may in certain cases properly be interpreted as having a meaning or scope other than the literal or usual meaning. They may be so interpreted where the scheme
F appearing from the language of the Legislature, read in its entirety, points to consistency as requiring modification of what would be the meaning apart from any context, or apart from the general law."

To avoid absurdity and injustice by judicial servitude to interpretative literality is a function of the court and this leaves me no option
G but to hold that the ID Act holds where disputes erupt and the LIC Act guides where other matters are concerned. In the field of statutory interpretation there are no inflexible formulae or fool-proof mechanisms. The sense and sensibility, the setting and the scheme, the perspective and the purpose—these help the judge navigate
H towards the harbour of true intendment and meaning. The legal dynamics of social justice also guide the court in statutes of the type

(1) The Political Tradition: The Lord Chancellors, 1912-1940 p. 221.

we are interpreting. These plural considerations led me to the conclusion that the ID Act is a special statute when industrial disputes, awards and settlements are the topic of controversy, as here. There may be other matters where the LIC Act *vis a vis* the other statutes will be a special law. I am not concerned with such hypothetical situations now.

I have set out, right at the outset, that my perspective must be benign in tune with Part IV of the Constitution. In the *UP State Electricity Board case*(1) this Court underscored the same approach :

> Before examining the rival contentions, we remind ourselves that the Constitution has expressed a deep concern for the welfare of workers and has provided in Art. 42 that the State shall make provision for securing just and humane conditions of work and in Art. 43 that the State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure etc. These are among the 'Directive Principles of State Policy'. The mandate of Article 37 of the Constitution is that while the Directive Principles of State Policy shall not be enforceable by any Court, the principles are 'nevertheless fundamental in the governance of the country' and 'it shall be the duty of the State to apply these Principles in making laws'. Addressed to Courts, what the injunction means is that while courts are not free to direct the making of legislation, courts are bound to evolve, affirm and adopt principles of interpretation which will further and not hinder the goals set out in the Director Principles of State Policy. This command of the Constitution must be ever present in the minds of judges when interpreting statutes which concern themselves directly or indirectly with matters set out in the Directive Principles of State Policy.

Whatever be the powers of regulation of conditions of service, including payment or non-payment of bonus enjoyed by the employees of the Corporation under the LIC Act, subject to the directives of the Central Government, they stem from a general Act and cannot supplant, subvert or substitute the special legislation which specifically deals with *industrial disputes* between workmen and their employers. In this view, other questions, which have been argued at length and considered by my learned brother, do not demand my

(1) [1979] 1 SCR 355 at 362.

A discussion. The High Court was right in its conclusion and I affirm its judgment. I, therefore, direct the Corporation to fulfill its obligations in terms of the 1974 settlements and start negotiations, like a model employer, for a fair settlement of the conditions of service between itself and its employees having realistic and equitable regard to the prevailing conditions of life, principles of industrial justice and
B the directives underlying Part IV of the Constitution.

Judicial review of administrative action and judicial interpretation of legislative provisions have serious limitations. Nevertheless, that power is a constitutional fundamental which must be exercised
C circumspectly but without being scared by statutory omnipotence or executive finality. The words of Prof. Wade come to one's mind :

> The law is still developing, but the important thing is that the courts once again accept, as they had always done except in their period of amnesia, that part of their duty was to require
D public authorities to respect certain basic rules of fairness in exercising power over the citizen.

I dismiss the appeal with costs. This disposes of Transfer Case No. 1 of 1979 also in which the order has to be that a writ will issue to the Corporation compelling it to carry out the terms of the
E Settlements of 1974 and injuncting it from acting upon or giving effect to the impugned notices, circulars and the said amended Government Order the said amended Staff Regulations being Annexures F, H, J, K and L thereto.

PATHAK, J.—I have read with great respect the separate judg-
F ments of my brother Krishna Iyer and my brother Koshal but in view of the importance of the questions raised I propose to deliver a separate judgment.

The facts of the case have already been set out in the judgments prepared by my learned brothers. I need mention again a few only.
G Clause (8) of the two settlements of 24th January, 1974 and 6th February, 1974 made the following provisions respecting bonus :

> "(i) No profit sharing bonus shall be paid. However, the Corporation may, subject to such directions as the Central Government may issue from time to time, grant any other kind of bonus to its class III and IV employees.
>
> H
>
> (ii) An annual cash bonus will be paid to all class III and class IV employees at the rate of 15% of the annual

salary..... actually drawn by an employee in respect of the financial year to which the bonus relates. A

(iii) Save as provided herein all other terms and conditions attached to the admissibility and payment of bonus shall be as laid down in the settlement on bonus dated the 26th June, 1972." B

The settlements were operative from 1st April, 1973 to 31st March, 1977. On 3rd March, 1978 the Life Insurance Corporation (the "Corporation") issued a notice, purportedly under s. 19(2), Industrial Disputes Act, 1947, of its intention to terminate the settlements on the expiry of two months because of economic and other reasons. The notice, however, recited the reservation that the material provisions of the Industrial Disputes Act did not apply to the Corporation and that the notice was not necessary. Another notice, this time under s. 9A, Industrial Disputes Act and issued on the same date, stated that it was intended to effect a change in the conditions of service of the workmen with effect from 1st June, 1978. The change notified related to the existing provision for bonus. A new clause was proposed. C D

The Life Insurance Corporation (Alteration of Remuneration and other Terms and Conditions of Service of Employees) Order, 1957 (the "Standardisation Order") was amended under s. 11(2), Life Insurance Corporation Act (the "Corporation Act") on 26th May, 1978 with effect from 1st June, 1978 substituting a new clause (9) for the original clause in respect of bonus. On the same date, the Corporation acting under clauses (b) and (bb) of s. 49(2) of the same Act amended the Life Insurance Corporation (Staff) Regulations, also with effect from 1st June, 1978 and substituted for the existing provision a new Regulation 58 along the same lines. Clause (9) of the Standardisation Order and Regulation 58 of the (Staff Regulations) now read as follows : E F G

"No employee of the Corporation shall be entitled to profit-sharing bonus. However, the Corporation may, having regard to the financial condition of the Corporation, in respect of any year and subject to the previous approval of the Central Government, grant non-profit-sharing bonus to its employees in respect of that year at such rates as the Corporation may think fit and on such terms and conditions as it may specify as regards the eligibility of such bonus." H

A The amendments made in the Standardisation Order and the Staff Regulations, in their application to the workmen of the Corporation, were made for the purpose of nullifying any further claim to annual cash bonus in terms of the settlements of 1974. The workmen challenged the validity of the amendments in so far as it affected their claim to the bonus, and the Allahabad High Court having B found in their favour, the Corporation has appealed to this Court. An identical controversy is the subject-matter of a writ petition filed in the Calcutta High Court and transferred to his Court.

The first question is whether the new clause (9) of the Standardisation Order succeeds in defeating the claim of the workmen. To C determine that, s. 11 of the Corporation Act must be examined. Sub-s. (1) guarantees to the transferred employee the same tenure, at the same remuneration and upon the same terms and conditions on the transfer to the Corporation as he enjoyed on the appointed day under the insurer, and he is entitled to then until they are duly altered by the Corporation or his employment in the Corporation D is terminated. The sub-section envisages alteration by the Corporation.

Sub-s. (2) of s. 11, by its first limb, confers power or the Central Government to alter the scales of remuneration and other terms and conditions of service applicable to transferred employees. Predictably, E when the transferred employees of different insurers were brought together in common employment under the Corporation they would have been enjoying different scales of remuneration and other terms and conditions of service. The power under this part of sub-s. (2) is intended for the purpose of securing uniformity among them. The F second limb of sub-s. (2) is the source of controversy before us. It empowers the Central Government to reduce the remuneration payable or revise the other terms and conditions of service. That power is to be exercised when the Central Government is satisfied that the interests of the Corporation and its Policy holders require such reduction or revision. The question is whether the provision is confined G to transferred employees only or extends to all employees generally. In my opinion, it is confined to transferred employees. The provision is a part of the scheme enacted in Chapter IV providing for the transfer of existing life insurance business from the insurers to the Corporation, and the attendant concomitants of that process. There is provision for the transfer of the assets and liabilities pertaining to H the business, of provident funds, superannuation and other like funds, of the services of existing employees of insurers to the Corporation and also of the services of existing employees of chief agents of the

insurers to the Corporation, and finally for the payment of compensation to the insurers for the transfer of the business to the Corporation. They are all provisions relating to the process of transfer. Sub-s. (2) of s. 11 is a part of that process, involving as it does the integration of the Corporation's staff and labour force. While the first limb of the sub-section provides for securing uniformity among the transferred employees in regard to the scales of remuneration and other terms and conditions of service, the second limb provides that if after such uniformity has been secured, or even in the process of securing such uniformity, the Central Government finds that the interests of the Corporation and its policy holders require a reduction in the remuneration payable or revision of the other terms and conditions of service applicable to those employees, it may make an order accordingly. It is true that the words "employees or any class of them" in the second limb are not prefaced by the qualifying word "transferred" or "such". But that was hardly necessary when regard is had to the mosaic of sections in which the provision is located. Admittedly, the first limb of sub-s. (2) relates to transferred employees only, and it must be held that so does the second limb. Both provisions are intended to constitute a composite process for rationalising the scales of remuneration and other terms and conditions of service of transferred employees with a view not only to effecting a standardisation between the transferred employees but also to revising their scales of remuneration, and terms and conditions of service to a pattern which will enable the newly established Corporation to become a viable and commercially successful enterprise. The standpoint of the second limit of the sub-section, as its language plainly indicates, is provided by the interests of the Corporation and its policy holders. For that reason, it is open to the Central Government under the sub-section to ignore the guarantee contained in sub-section (1) of s. 11 in favour of the employees, or anything contained in the Industrial Disputes Act, 1947, or any other law for the time being in force or any award, settlement or agreement for the time being in force. Benefits conferred thereunder on the employees must yield to the need for ensuring that the Corporation and its policy holders do not suffer unreasonably from the burden of such benefits. The need for such a provision arises because it is a burden by which the Corporation finds itself saddled upon the transfer a burden not of its own making. Unless the statute provided for such relief, the weight of that burden could conceivably cripple the successful working of the Corporation from its inception as a business organisation. It is a situation to be distinguished from what

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A happens when the Corporation, launched on its normal course, voluntarily assumes, in the course of its working, obligations in respect of its employees or becomes subject to such obligations by reason of subsequent industrial adjudication. Like any other employer, the Corporation is then open to the normal play of industrial relations in contemporary or future time. That B the two provisions of sub-s. (2) are linked with the process of transfer and integration is further indicated by the circumstance that the power thereunder is vested in the Central Government. The scheme of the sections in Chapter IV indicates generally that Parliament has appointed the Central Government as the effective C and direct instrumentality for bringing about the transfer and integration in the different sectors of that process.

There is no danger of an order made by the Central Government under the second limb of sub-s. (2) in respect of transferred employees being struck down on the ground that it violates the D equality provisions of Part III of the Constitution because similar action has not been taken in respect of newly recruited employees. So long as such order is confined to what is necessitated by the process of transfer and integration, the transferred employees constitute a reasonably defined class in themselves and form no common basis with newly recruited employees. E

I am unable to subscribe to the view that the second limb to sub-s. (2) of s. 11 is related to employees generally, that is to say, both transferred and newly recruited employees, of the Corporation.

F Another point is whether the power under the second limb of sub-s. (2) of s. 11 can be exercised more than once. Clearly, the answer must be in the affirmative. To effectuate the transfer appropriately and completely it may be necessary to pass through different stages, and at each stage to make a definite order. So long as the complex of orders so made is necessarily linked with the process of transfer G and integration, it is immaterial that a succession of orders is made. I am not impressed by the circumstance that the original Bill moved in Parliament for amending sub-s. (2) of s. 11 contained the words "from time to time" and that those words were subsequently deleted when enactment took place. The intent of the legislative provision must be discovered primarily from the legislation itself. H

Now turning to the notification dated 26th May, 1978 which inserted the new clause (9) in the standardisation Order, it is

evident from the recital with which it opens that it is intended to apply to transferred employees only. It declares explicitly that the Central Government is satisfied that a revision of the terms and conditions of service of the transferred employees is considered necessary. However, there is nothing to show that the amendment is related to the process of transfer and integration. On the contrary, the circumstance that an identical provision has been made by the Corporation, with the prior approval of the Central Government, in the new Regulation 58 by a notification issued under both clauses (b) and (bb) of the s. 49(2), that is to say, in respect of both newly recruited as well as transferred employees, demonstrates that the provision has no particular relationship with that process. Accordingly, I am of opinion that the notification dated 26th May, 1978 purporting to amend the Standardisation Order is invalid. It has no effect on the right to bonus claimed by the workmen.

That takes us to question whether the new Regulation 58 inserted in the (Staff) Regulations by the Life Insurance Corporation of India (Staff) Second Amendment Regulations, 1978 can be invoked against the workmen of the Corporation.

The workmen contend that the Industrial Disputes Act constitutes special legislation for the resolution of industrial disputes and inasmuch as it has been specially enacted for the promotion of harmonious relations between an employer and his workmen all matters concerning the workmen must be regarded as falling within the scope of the Industrial Disputes Act. The Corporation Act, it is said, has a different orientation. It is concerned primarily with the nationalisation of life insurance business; and the employment of a staff, and their terms and conditions of service as well as disputes concerning them, are subsidiary to the main purpose of nationalisation. The workmen, it is urged, are a special category of the total staff employed by the Corporation, and as regards them it is the Industrial Disputes Act and not the Corporation Act which governs. Accordingly, the argument goes, a settlement effected under s. 18 of the Industrial Disputes Act must continue to have force as determined by s. 19(2) of the Act and even thereafter, and nothing contained in the Corporation Act or the Regulations made thereunder can be permitted to affect the operation of its terms. It is urged that Regulation 58 cannot be applied in the case of those employees of the Corporation who are "workmen" within the meaning of the Industrial Disputes Act.

A The case of the Corporation and the Union of India is that Regulation 58 was framed when the settlements had ceased to be operative and binding under s. 19(2), Industrial Disputes Act, that even if it be assumed that a contract existed between the parties at the time it must yield to Regulation 58, which had the force of law. It was contended that as regards the workmen of the Corporation, B the Corporation Act, is a special law and the Industrial Disputes Act is the general law and, therefore, Regulation 58 must prevail over any transaction under the Industrial Disputes Act.

Before any thing more, it is necessary to ascertain the true C relationship of the parties in respect of the settlements of 1974 at the time when Regulation 58 was framed. The settlements were to remain in operation for a period of four years ending 31st March, 1977. Admittedly, they were settlements reached under the Industrial Disputes Act. There is no dispute that they were settlements governed by s. 19, Industrial Disputes Act. Therefore, by virtue of s. 19(2) D they were binding upto 31st March, 1977, the period agreed upon by the parties and they continued to be binding on the parties thereafter until the expiry of two months from the date on which written notice of the intention to terminate the settlement was given by one of the parties to the other.

E It is desirable to appreciate what is a settlement as understood in the Industrial Disputes Act. In essence, it is a contract between the employer and the workmen prescribing new terms and conditions of service. These constitute a variation of existing terms and conditions. As soon as the settlement is concluded and becomes operative, the contract embodied in it takes effect and the existing F terms and conditions of the workmen are modified accordingly. Unless there is some thing to the contrary in a particular term or condition of the settlement the embodied contract endures indefinitely, continuing to govern the relation between the parties in the future, subject of course to subsequent alteration through a fresh settlement, G award or valid legislation. I have said that the transaction is a contract. But it is also something more. Conceptually, it is a "settlement". It concludes or "settles" a dispute. Differences which had arisen and were threatening industrial peace and harmony stand resolved in terms of a new contract. In order that the new contract be afforded a chance of being effectively worked out, a mandate H obliging the parties to unreservedly comply with it for a period of time is desirable. It was made "binding" by the statute for such period. Section 19(2) was enacted. The spirit of conciliation, the

foundation of the settlement, was required by law to bind the parties for the time prescribed. Immediate reagitation in respect of matters covered by the settlement was banned. Section 23(c) prohibited strikes by the workmen in breach of the contract and lockouts by the employer in respect of such matters. A breach of any term was made punishable by s. 29. Certainty in industrial relations is essential to industry, and a period of such certainty is ensured by s. 19(2). On the expiry of the period prescribed in the sub-section, the conceptual quality of the transaction as a "settlement" comes to an end. The ban lifts. The parties are no longer bound to maintain the industrial *status quo* in respect of matters covered by the settlement. They are at liberty to seek an alteration of the contract. But until altered, the contract continues to govern the relations between the parties in respect of the terms and conditions of service.

The position seems comparable with what happens in the case of an award. Section 19(3) and s. 19(6) contain similar provisions. In the case of an award this Court has laid down in *South Indian Bank Limited* v. *A. R. Chacko*(1) that after the period of operation of an award has expired, the award does not cease to be effective. It continues to be binding on the parties, by virtue of s. 19(6), until notice has been given by one of the parties of the intention to terminate it and two months have elapsed from the date of such notice. Thereafter, "it will continue to have its effect as a contract between the parties that has been made by industrial adjudication in place of the old contract....., the very purpose for which industrial adjudication has been given the peculiar authority and right of making new contracts between employers and workmen makes it reasonable to think that even though the period of operation of the award and the period for which it remains binding on the parties may elapse—in respect of both of which special provisions have been made under ss. 23 and 29 respectively—may expire, the new contract would continue to govern the relations between the parties till it is displaced by another contract." Later in *Md. Qasim Larry, Factory Manager, Sasamusa Sugar Works* v. *Muhammad Samsuddin And Another,*(2) the court held that when an award was made and it prescribed a new wage structure, in law the old contractual wage structure became inoperative and its place was taken by the wage structure prescribed by the award. The court said :

(1) [1964] 5 S.C.R. 625.

(2) [1964] 7 S.C.R. 419.

A "In a sense, the latter wage structure must be deemed to be a contract between the parties, because that, in substance, is the effect of industrial adjudication. The true legal position is that when industrial disputes are decided by industrial adjudication and awards are made, the said awards supplant contractual terms in respect of matters covered by them and are substituted for
B them."

Learned counsel for the Corporation and the Union of India submit that the law declared by this Court in respect of an award does not hold true in the case of a settlement. I am unable to agree. Not only are the statutory provisions pertaining to a settlement and
C an award comparable in this regard but, if anything, the observations if read in respect of a settlement, which after all is a voluntary agreement between the parties, would seem to hold more strongly.

The contract between the parties embodied in the settlements
D of 1974 set forth the terms and conditions of service when Regulation 58 was substituted in the (Staff) Regulations under clauses (b) and (bb) of s. 49(2) of the Corporation Act. The question is whether Regulation 58 will prevail over the "settlement" contract. For that purpose, it is necessary to examine the controversy whether the Corporation Act is the general law and the Industrial Disputes
E Act the special law or *vice-versa.*

It will be noticed that the Corporation Act was enacted primarily for effecting the nationalisation of life insurance business by transferring all such business to a Corporation established for the purpose. The principal provision in the Corporation Act is s. 7, which
F provides for the transfer to, and vesting in, the Corporation of all the assets and liabilities appertaining to the controlled business of the insurers. The central purpose being assured, the concomitant provisions followed. These included making available to the insurers' employees, under s. 11(1), a continuous and unbroken tenure of employment on terms and conditions to which they would have been
G entitled on the "appointed day" as if the Corporation Act had not been passed. It was evidently intended that in running the business the Corporation should broadly take off where the insurers had ceased. For the purpose of enabling it to discharge its functions under the Act, the Corporation has been empowered by s. 23 to employ such number of persons as it thinks fit. The power conferred in
H clauses (b) and (bb) of s. 2(2) to make regulations prescribing the terms and conditions of service of newly recruited as well as transferred employees has been conferred for the same purpose, that is

to say, the purpose, specifically mentioned in s. 49(1), of giving effect to the provisions of the Act. Clearly, the object behind s. 11(1), s. 23 and clauses (b) and (bb) of s. 49(2) is to provide staff and labour for the purpose of the proper management of the nationalised life insurance business. On the other hand, the Industrial Disputes Act deals specifically with a special subject matter, the investigation and settlement of industrial disputes between an employer and his workmen. An "industrial dispute" as defined by s. 2(k) is a collective dispute. It is a special kind of dispute. Except for a case under s. 2A, the entire body of workmen or a substantial number of them constitutes a party to the dispute. And all the employees of an employer are not "workmen". Those employees are "workmen" who satisfy the definition contained in s. 2(s). A restricted category of employees is contemplated, and in an industrial dispute that category alone of all the employees can be interested. The resolution of industrial disputes under the Act is envisaged through the particular machinery and processes detailed therein. A special jurisdiction is created for the purpose. Industrial disputes, according to the Act, can be resolved by settlement or award. There are provisions setting forth the consequences of a settlement or an award, and there are also provisions indicating how a change can be initiated in the resulting industrial relations. Other chapters in the Industrial Disputes Act lay down the law in respect of strikes and lock-outs, lay off, retrenchment and closure and penalties for breach of its provisions. Plainly, if a settlement resolves an industrial dispute under the Industrial Disputes Act, it pertains to the central purpose of that Act. The Act constitutes special law in respect of a settlement reached under its auspices between an employer and his "workmen" employees. The consequences of such settlement are the product of the special law. The Corporation Act does not possess the features outlined above. It deals only generally in regard to a staff and labour force. They are referred to compendiously as "employees". No special provision exists in regard to industrial disputes and their resolution and the consequences of that resolution. The special jurisdiction created for the purpose under the Industrial Disputes Act is not the subject-matter of the Corporation Act at all. It would be correct to say that no corresponding provision in the Corporation Act, subsequent enactment, deals with the subject matter enacted in the Industrial Disputes Act. Yet Parliament intended to provide for the Corporation's "workmen" employees the same opportunities as are available under the Industrial Disputes Act to the workmen of other employers. That is demonstrated by s. 2(a)(i) of that Act. The expression "appropriate

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A Government" is specifically defined by it in relation to an industrial dispute concerning the Life Insurance Corporation. Both the Central Government and the Corporation understood the Industrial Disputes Act in that light, for one finds that Regulation 51(2) of the (Staff) Regulations made by the Corporation under clauses (b) and (bb) of s. 49(2) of the Corporation Act, with the previous B approval of the Central Government, speaks of giving effect to a revision of scales of pay, dearness allowances or other allowances "in pursuance of any award, agreement or settlement".

In my opinion, it is difficult to resist the conclusion that the C Industrial Disputes Act is a special law and must prevail over the Corporation Act, a general law, for the purpose of protecting the sanctity of transactions concluded under the former enactment. It is true that as laid down in *Life Insurance Corporation of India* v. *Sunil Kumar Mukherjee*(1) and reiterated in *Sukhadev Singh* v. *Bhagat Ram,*(2) the Regulations framed under the Corporation Act have the D force of law. But that is of little moment if no reference is permissible to the Regulations when considering the validity and operation of the "settlement" contract. Accordingly, Regulation 58, a product of the Corporation Act, cannot supersede the contract respecting bonus between the parties resulting from the settlements of 1974. Support is derived for this conclusion from *U. P. State Electricity* E *Board & Ors.* v. *Hari Shanker Jain & Ors.*(3) where reference has been made to *Mary Sewards* v. *The Owner of the Vera Cruz*(4) and *J. K. Cotton Spinning & Weaving Mills Ltd.* v. *State of Uttar Pradesh*(5).

At the same time, it is pertinent to note that the "workmen" F employees of the Corporation continue to be governed in matters not covered by the settlements by the (Staff) Regulations, and that position is expressly recognised in clause 12(4) of the settlements of 1974. Clause 12(4) declares :

> "Except as otherwise provided or modified by this settlement, G the workmen shall continue to be governed by all the terms and conditions of service as set forth and regulated by the Life Insurance Corporation of India (Staff) Regulations, 1960..... as also the administrative instructions....."

(1) [1964] 5 S.C.R. 528.
(2) [1975] 3 S.C.R. 619.
H (3) [1979] 1 S.C.R. 355.
(4) [1884] 10 A.C. 59 at 68.
(5) A.I.R. 1961 S.C. 1170.

Our attention has been drawn to s. 11(1), Corporation Act which empowers the Corporation to duly alter the terms and conditions of service of transferred employees. In construing the scope of the Corporation's powers in that behalf, it seems to me that appropriate importance should be attached to the qualifying word "duly". When the Corporation seeks to alter the terms and conditions of transferred employees, it must do so in accordance with law, and that requires it to pay proper regard to the sanctity of rights acquired by the "workmen" employees under settlements or awards made under the Industrial Disputes Act. The only provision, so far as I can see, where the Corporation Act permits disregard of the Industrial Disputes Act and awards, settlements or agreements is the second limb of s. 11(2). And the scope of that provision, as I have explained, is confined to the peculiar circumstance in which the Corporation, immediately on coming into existence, finds itself saddled with a recurring financial burden, by virtue of the service of the transferred employees, too heavy for its own viability as a business organisation. No such provision is to be found elsewhere in the Corporation Act. It is conspicuous by its absence in clauses (b) and (bb) of s. 49(2). The provision in s. 11(2) has been made for the purpose of protecting the interests of the Corporation and its policyholders. The policyholders constitute an important and significant sector of public interest. Indeed, the avowed object of the entire Corporation Act is to provide absolute security to the policyholders in the matter of their life insurance protection. That is assured by a wise management of the Corporation's business, and by ensuring that when settlements are negotiated between the Corporation and its workmen or when industrial adjudication is initiated in labour courts and industrial tribunals, the protection of the policyholders will find appropriately significant emphasis in the deliberations.

In the view that the notification dated 26th May, 1978 purporting to amend the Standardisation Order by substituting clause (9) is invalid and the newly enacted Regulation 58 does not effect the contract in respect of bonus embodied in the settlements of 1974 between the Life Insurance Corporation and its "workmen" employees, effect must be given to that contract and this appeal must fail and the writ petition, transferred from the Calcutta High Court, must succeed. If the terms and conditions of service created by the contract need to be reconsidered, recourse must be had to the modes recongnised by law — negotiated settlement, industrial adjudication or appropriate legislation.

A In the result, Civil Appeal No. 2275 of 1978 is dismissed with costs to the first, second and third respondents. The fourth respondent shall bear its own costs. The Transfer Petition No. 16 of 1979 is allowed in the terms set out above, costs to be paid to the petitioners by the second respondent.

B KOSHAL, J.—By this judgment I shall dispose of Civil Appeal No. 2275 of 1978 which has been instituted by special leave granted by this Court against a judgment dated August 11, 1978 of a Division Bench of the Allahabad High Court allowing a petition under article 226 of the Constitution of India and issuing a writ of *mandamus* to the Life Insurance Corporation of India (hereinafter referred to as C the Corporation) directing it not to give effect to a notice dated the 6th May, 1978, issued by it under section 9A of the Industrial Disputes Act (I. D. Act for short) as also to a notification dated the 26th May, 1978 issued under sub-section (2) of section 11 of the Life Insurance Corporation Act, 1956 (hereinafter called the L. I. C. Act). This judgment shall also cover Transfer Case No. 1 of 1979 D in which another petition under article 226 aforesaid instituted before the High Court of Calcutta and raising the same questions which fall for decision in the said appeal is awaiting disposal by us as that petition was transferred to this Court by its order dated the 10th September, 1979.

E 2. The petition decided by the Allahabad High Court was filed by the Class III and Class IV employees of the Corporation challenging the right of the employer and the Union of India to change to the detriment of the said employees a condition of service regarding the payment to them of bonus to which they had earlier become entitled through a settlement with the Corporation made under section F 18 of the I. D. Act.

3. The petition last mentioned arose in circumstances which may be set out in some detail. The Corporation came into existence on the 1st September, 1956, as a statutory authority established under the L. I. C. Act. As from the said date all institutions carrying on life G insurance business in India were nationalised to the extent of such business and their corresponding assets and liabilities were transferred to the Corporation. Section 11 of the L. I. C. Act provided for the transfer of service of those employees of such institutions who were connected with life insurance business (described in the Act as "controlled business") immediately before the said date to the Corporation H and for some other matteds. As it is the interpretation of that section which is mainly in controversy before us, it may be set out here *in extenso :*

"11. (1) Every whole-time employee of an insurer whose controlled business has been transferred to and vested in the Corporation and who was employed by the insurer wholly or mainly in connection with his controlled business immediately before the appointed day shall, on and from the appointed day, become an employee of the Corporation, and shall hold his office therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity and other matters as he would have held the same on the appointed day if this Act had not been passed, and shall continue to do so unless and until his employment in the Corporation is terminated or until his remuneration, terms and conditions are duly altered by the Corporation :

"Provided that nothing contained in this sub-section shall apply to any such employee who has, by notice in writing given to the Central Government prior to the appointed day, intimated his intention of not becoming an employee of the Corporation.

"(2) Where the Central Government is satisfied that for the purpose of securing uniformity in the scales of remuneration and the other terms and conditions of service applicable to employees of insurers whose controlled business has been transferred to, and vested in, the Corporation, it is necessary so to do, or that, in the interests of the Corporation and its policy-holders, a reduction in the remuneration payable, or a revision of the other terms and conditions of service applicable, to employees or any class of them is called for, the Central Government may, notwithstanding anything contained in sub-section (1), or in the Industrial Disputes Act, 1947, or in any other law for the time being in force, or in any award, settlement or agreement for the time being in force, alter (whether by way of reduction or otherwise) the remuneration and the other terms and conditions of service to such extent and in such manner as it thinks fit; and if the alteration is not acceptable to any employee, the Corporation may terminate his employment by giving him compensation equivalent to three months' remuneration unless the contract of service with such employee provides for a shorter notice of termination.

"Explanation.—The compensation payable to an employee under this sub-section shall be in addition to, and shall not affect, any pension, gratuity, provident fund money or any other

A benefit to which the employee may be entitled under his contract of service.

"(3) If any question arises as to whether any person was a whole-time employee of an insurance or as to whether any employee was employed wholly or mainly in connection with
B the controlled business of an insurer immediately before the appointed day the question shall be referred to the Central Government whose decision shall be final.

"(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in
C force, the transfer of the services of any employee of an insurer to the Corporation shall not entitle any such employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority."

Section 23 of the L. I. C. Act gave to the Corporation the power
D to employ such number of persons as it thought fit for the purpose of enabling it to discharge its functions under the Act and declared that every person so employed or whose services stood transferred to the Corporation under section 11 would be liable to serve anywhere in India. Section 49 conferred on the Corporation the power to make regulations for the purpose of giving effect to the provisions of the
E Act with the previous approval of the Central Government. Sub-section (2) of that section enumerated various matters in relation to which such power was particularly conferred. Clauses (b) and (bb) of sub-section (2) read thus :

"(b) the method of recruitment of employees and agents of the
F Corporation and the terms and conditions of service of such employees or agents;

"(bb) the terms and conditions of service of persons who have become employees of the Corporation under sub-section (1) of section 11;"

G On the 1st June, 1957, the Central Government, in exercise of the powers conferred on it by sub-section (2) of section 11 of the L. I. C. Act, promulgated the Life Insurance Corporation (Alteration of Remuneration and other Terms and Conditions of Service of Employees) Order, 1957 (for short "the 1957 Order") altering the remuneration and other terms and conditions of service of those
H employees of the Corporation whose services had been transferred to it under sub-section (1) of that section (referred to hereinafter as the transferred employees). Clause 9 of the 1957 Order declared that

no bonus would be paid but directed that the Corporation would set aside an amount every year for expenditure on schemes of general benefit scheme and on other amenities to them. On the 26th June 1959, the Central Government amended clause 9 of the 1957 Order so as to provide that non-profit sharing bonus would be paid to those employees of the Corporation whose salary did not exceed Rs. 500/ per month.

On the 2nd July, 1959 there was a settlement between the Corporation and its employees providing for payment to them of cash bonus at the rate of 1½ months' basic salary for the period from the 1st September, 1956 to the 31st December, 1961.

In the year 1960 were framed, under section 49 of L. I. C. Act, the Life Insurance Corporation of India (Staff) Regulations, 1960 (the 1960 regulations, for brevity), whereof regulation 58 ran thus :

> "The Corporation may, subject to such directions as the Central Government may issue, grant non-profit sharing bonus to its employees and the payment thereof, including conditions of eligibility for the bonus, shall be regulated by instructions issued by the Chairman from time to time."

Orders were again passed on 14th April, 1962 and 3rd August, 1963, the effect of which was to remove the limit of Rs. 500/- on the basic salary as a condition of eligibility for payment of bonus.

The settlement dated the 2nd July, 1959 was followed by three others which were arrived at on the 29th January, 1963, the 20th June, 1970 and the 26th June, 1972, respectively and each one of which provided for payment of bonus at a particular rate.

Disputes between the Corporation and its workmen in regard to the latter's conditions of service persisted nevertheless, but were resolved by two settlements dated the 24th January, 1974 and the 6th February, 1974, arrived at in pursuance of the provisions of section 18 read with section 2(p) of the I. D. Act. The Corporation was a party to both the settlements which were identical in terms. However, while four of the five Unions of workmen subscribed to the first settlement, the fifth Union was a signatory to the second. The settlements provided for revised scales of pay, the method of their fixation and dearness and other allowances as well as bonus. Clause 8 of each of the settlements was to the following effect :

A *"Bonus*

"(i) No profit sharing bonus shall be paid. However, the Corporation may, subject to such directions as the Central Government may issue from time to time, grant any other kind of bonus to its Class III & IV employees.

B (ii) An annual cash bonus will be paid to all Class III and Class IV employees at the rate of 15% of the annual salary (i.e. basic pay inclusive of special pay, if any, and dearness allowance and additional dearness allowance) actually drawn by an employee in respect of the financial year to which the bonus relates.

C (iii) Save as provided herein all other terms and conditions attached to the admissibility and payment of bonus shall be as laid down in the Settlement on bonus dated the 26th June 1972."

Clause 12 of each settlement provided :

D "(1) This settlement shall be effective from 1st April, 1973, and shall be for a period of four years, i.e., from 1st April, 1973 to 31st March, 1977.

(2) The terms of the settlement shall be subject to the approval of the Board of the Corporation and the Central Govern-

E ment.

(3) This Settlement disposes of all the demands raised by the workmen for revision of terms and conditions of their service.

(4) Except as otherwise provided or modified by this Settle-

F ment, the workmen shall continue to be governed by all the terms and conditions of service as set forth and regulated by the Life Insurance Corporation of India (Staff Regulations), 1960 as also the administrative instructions issued from time to time and they shall, subject to the provisions thereof including any period of operation specified therein,

G be entitled to the benefits thereunder."

It is not disputed that the settlements were approved by the Board of the Corporation as also by the Central Government.

Under clause 11 of each settlement every employee of the Corporation had the option to elect to be governed either by the new scale

H of pay applicable to him or the scale which he had been enjoying hitherto. It is common ground between the parties that all the employees of the Corporation opted for the new scales of pay and

that bonus was paid in accordance therewith for the years 1973-74 and 1974-75 in April 1974 and April 1975 respectively. A

On 25th September 1975, the Payment of Bonus (Amendment) Ordinance, 1975 was promulgated by the President of India and was subsequently replaced by the Payment of Bonus (Amendment) Act, 1976 which was brought into force with effect from the date last mentioned. This amending law considerably curtailed the rights of employees of industrial undertakings to bonus, but was inapplicable to the Corporation by virtue of the provisions of section 32 of the Payment of Bonus Act. However, the payment of bonus for the year 1975-76 to the employees of the Corporation was stopped under instructions from the Central Government, whose action in that behalf was challenged by the employees through a petition under article 226 of the Constitution of India in the High Court of Calcutta, a single Judge of which issued a writ of *mandamus* directing the Corporation to act in accordance with the terms of the settlement dated the 24th January, 1974. The Corporation preferred a Letters Patent appeal against the decision of the learned single Judge and that appeal was pending disposal when the Central legislature promulgated the Life Insurance Corporation (Modification of Settlement) Act, 1976 (for short, the 1976 Act) section 3 of which laid down : B C D

> "Notwithstanding anything contained in the Industrial Disputes Act, 1947, the provisions of each of the settlements, in so far as they relate to the payment of an annual cash bonus to every Class III and Class IV employee of the Corporation at the rate of fifteen per cent of his annual salary, shall not have any force or effect and shall not be deemed to have any force or effect on and from 1st day of April, 1975." E

The 1976 Act was enacted on 29th May, 1976 and was challenged by the workmen in this Court which, on the 21st of February, 1978, declared it to be void as offending article 31(2) of the Constitution of India through a judgment which is reported as *Madan Mohan Pathak* v. *Union of India,* [1978] 3 S. C. R. 334, and directed the Corporation to forbear from implementing the 1976 Act and to pay to its Class III and Class IV employees bonus for the years 1-4-1975 to 31-3-1976 and 1-4-1976 to 31-3-1977 in accordance with the terms of sub-clause (ii) of clause 8 of each settlement. F G

On the 3rd March, 1978, the Corporation issued to its workmen a notice under sub-section (2) of section 19 of the I. D. Act declaring its intention to terminate the settlements on the expiry of a period of two months from the date the notice was served. The notice, however, mentioned in express terms that according to the Corporation H

A no such notice was really necessary for termination of the settlements. On the same date, another notice was issued by the Corporation under section 9A of the I. D. Act stating that it intended to effect a change in accordance with the contents of the annexure to the notice, as from the 1st June, 1978, in the conditions of service of its workmen. The said annexure contained the following clause :

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"AND WHEREAS for economic and other reasons it would not be possible for the Life Insurance Corporation of India to continue to pay bonus on the aforesaid basis;

"NOW, therefore, it is our intention to pay bonus to the employees of the Corporation in terms reproduced hereunder;

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"No employee of the Corporation shall be entitled to profit sharing bonus. However, the Corporation may, having regard to the financial condition of the Corporation in respect of any year and subject to the previous approval of the Central Government, grant non-profit sharing bonus to its employees in respect of that year at such rate as the Corporation may think fit and on such terms and conditions as it may specify as regards the eligibility of such bonus'."

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The workmen sent a reply to the two notices just above mentioned and took the stand that the Corporation had no right to render inoperative the clause regarding bonus contained in the two settlements.

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On 26th May, 1978, the Corporation issued a notification under section 49 of the L. I. C. Act substituting a new regulation for the then existing regulation bearing serial number 58. The new regulation was to come into force from the 1st June, 1978, and stated :

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"58. No employee of the Corporation shall be entitled to profit sharing bonus. However, the Corporation may, having regard to the financial condition of the Corporation in respect of any year and subject to the previous approval of the Central Government grant non-profit sharing bonus to its employees in respect of that year at such rate as the Corporation may think fit and on such terms and conditions as it may specify as regards the eligibility for such bonus."

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Simultaneously an amendment on the same lines was made in the 1957 Order (which, as already stated, was restricted in its application to transferred employees only) by the substitution of a new clause for the then existing clause 9 in pursuance of the provisions of sub-section (2) of section 11 of the L. I. C. Act. The new clause is in the following terms :

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"9. No employee of the Corporation shall be entitled to profit sharing bonus. However, the Corporation may, having regard to the financial condition of the Corporation in respect of any year and subject to the previous approval of the Central Government, grant non-profit sharing bonus to its employees in respect of that year at such rate as the Corporation may think fit and on such terms and conditions as it may specify as regards the eligibility for such bonus."

It was the issuance of the two notices by the Corporation on the 3rd March, 1978, under section 19(2) and 9A of the I. D. Act respectively and the action taken by the Central Government on the 26th May, 1978, by making new provisions in regard to the payment of bonus to the Corporation's employees that furnished the cause of action for the latter to petition to the Allahabad High Court under article 226 of the Constitution of India.

4. After consideration of the various contentions raised before it the Allahabad High Court arrived at the following conclusions :

I. The I. D. Act is an 'independent Act' which deals with adjudication and settlement of matters in dispute between an employer and his workmen. It is thus a special law which would override the provisions of a general law like the L. I. C. Act.

II. Three corollaries follow from conclusion 1 :

(a) Section 23 of the L. I. C. Act which envisages employment of persons by the Corporation implies settlement of conditions of service which may legally be superseded (only) by another settlement arrived at under section 18 of the I. D. Act.

(b) The new regulation 58 framed under section 49 of the L. I. C. Act and the notification issued under sub-section (2) of section 11 thereof substituting a new clause 9 in the 1957 Order are wholly ineffective against the operation of the 1974 settlements which were arrived at in pursuance of the provisions of the I. D. Act and which therefore, continue to govern the parties thereto.

(c) After the issuance of the notices under sections 19(2) and 9A of the I.D. Act, the Corporation had no power to alter the condition of service of its employees in regard to bonus by a unilateral act as neither of the two sections confers such power on an employer.

A III. Corollary (b) in conclusion II is in full accord with the view expressed in *Madan Mohan Pathak's case* (supra) by the Supreme Court in as much as it upheld the two settlements even though it did not advert to regulation 58 and further ruled that the conditions of service laid down in those settlements could be varied only by a fresh settlement or award made under the provisions of the I. D. Act and that till then sub-clause (ii) of clause 8 of each settlement (which is independent of clause (i) thereof) would remain in full force. None of the authorities reported as *C. Sankararskavanon* v. *The State of Kerala*(1) *Roshan Lal* v. *Union,*(2) *Sukhdev* v. *Bhagatram,*(3) *Kalvammal Bhandari* v. *State of Rajasthan,*(4) *State of U.P.* v. *Babu Ram Upadhya,*(5) *I.T.O.* v. *M. C. Ponnoose*(6) and cited on behalf of the Corporation lays down any rule to the contrary.

IV. In spite of clause 12 of the two settlements they did not cease to be binding on the parties thereto even after the expiry of the period of 4 years mentioned in that clause and the notice under section 19(2) of the I. D. Act issued by the Corporation would not terminate the settlements but would have the effect merely of paving the way for fresh negotiations. This proposition follows from *South Indian Bank Ltd.* v. *A. R. Chacko,*(7) and *Indian Link Chain Ltd.* v. *Workmen,*(8) and is not negatived by the decision in *Premier Auto* v. *K. S. Wadke*(9). Although *Chacko's* case dealt in terms with an award and not a settlement, no distinction exists between the two and they stand on the same footing for the purpose of judging the effect of a notice under section 19(2) of the I. D. Act.

V. There is no dispute that no petition under article 226 of the Constitution of India would lie merely for the enforcement of a contract or for the recovery of an amount payable by the Corporation to its employees where the latter had an alternative remedy under section 10 or 33-C of the I. D. Act. However, the relief sought by the workmen in the present case is directed only against the action taken by the Corporation and the Union of India under sections 19 and 9A of the I. D. Act and sections 11(2) and 49 of the L. I. C. Act—a relief similar to that granted by this Court in *Madan Mohan Pathak's* case (supra). The contention raised on behalf of the Corpo-

(1) A.I.R. 1971 S.C. 1997.
(2) [1968] 1 S.C.R. 185.
(3) [1975] 3 S.C.R. 619.
(4) [1975] 2 S.C.R. 36.
(5) [1961] 2 S.C.R. 679.
(6) [1970] 1 S.C.R. 678.
(7) [1964] 5 S.C.R. 625.
(8) [1972] 1 S.C.R. 790.
(9) [1976] 1 S.C.R. 427.

ration about the non-maintainability of the petition is therefore without force. A

It was on the basic of these conclusions that the writ of mandamus mentioned in the opening paragraph of this judgment was issued by the High Court to the Corporation on whose behalf the first four of those conclusions have been impugned before us and I proceed to examine the same in the light of arguments advanced at length by learned counsel for the parties and for the Class II employees of the Corporation who were permitted to intervene in the appeal before us. B

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5. As conclusion II consists merely of corollaries derived directly from conclusion I and it is the correctness or otherwise of the latter that would determine the sustainability of the former, the two may legitimately be dealt with together, although it is conclusion I on which I would primarily concentrate.

6. For convenience of examination, conclusion I may be split up into two propositions : D

(a) The I. D. Act is a special law because it deals with adjudication and settlement of matters in dispute between an employer and his workmen while the L. I. C. Act is a general law.

(b) The I. D. Act, being a special law, would override a general law like the L. I. C. Act. E

7. Now in relation to proposition (a) it cannot be gain-said that the I. D. Act deals with the adjudication or settlement of disputes between an employer and his workmen and would, therefore, be a special law vis-a-vis another statute *which covers a larger field* and may thus be considered "general" as compared to it. It cannot, however, be regarded as a special law in relation to *all* other laws irrespective of the subject-matter dealt with by them. In fact a law may be special when considered in relation to another piece of legislation but only a general one vis-a-vis still another. An example will help illustrate the point. A law governing matters pertaining to medical education would be a special law in relation to a statute embracing education of all kinds but must be regarded as a general law when preference over it is claimed for what I may call a *more special* law, such as an Act dealing with only one aspect of medical education, say, instruction in the field of surgery. And even this "more special" law may become general if there is a conflict between it and another operating in a still narrower field, e.g., thoracic surgery. "Special" and "general" used in this context are relative terms and it is the content of one statute *as compared to the other* that will determine F G H

A which of the two is to be regarded as special in relation to the other. Viewed in this light proposition (a) cannot stand scrutiny. The I. D. Act would no doubt be a special Act in relation to a law which makes provision for matters wider than but inclusive of those covered by it, such as the Indian Contract Act as that is a law relating to *contracts generally* (including those between an industrial employer and his B workmen), but it would lose that categorisation and must be regarded as a general law when its rival is shown to operate in a field narrower than its own. And such a rival is that part of the L. I. C. Act which deals with conditions of service of the employees of the L.I.C.—a single industrial undertaking (of a special type) as opposed to all others of its kind which fall within the ambit of the I.D. Act. C Where the competition is between these two Acts, therefore, the L. I. C. Act must be regarded as a special law and (in comparison thereto) the I. D. Act as a general law.

8. Proposition (b) is equally insupportable even if the I. D. Act is regarded as a special law in comparison to the L. I. C. Act. The D High Court appears to have somehow tried to apply the maximum *generalia specialibus non derogant* to the situation with which it was concerned. But does that maxim lead to the proposition under discussion?

The general rule to be followed in the case of a conflict between E two statutes is that the later abrogates the earlier one (*Leges posteriores priores contrarias abrogant*). To this general rule there is a well known exception, namely, *generalia specialibus non derogant* (general things do not derogate from special things), the implications of which are thus stated succinctly by Warl Jowitt in 'The Dictionary of English Law':

F

> "Thus a specific enactment is not affected by a subsequent general enactment unless the earlier enactment is inconsistent with the later enactment, or unless there is some express reference in the later enactment to the earlier enactment, in either of which cases the maxim *leges posteriores priores contrarias abrogant* G applies."

In other words a prior special law would yield to a later general law, if either of the following two conditions is satisfied:

(i) The two are inconsistent with each other.

(ii) There is some express reference in the later to the earlier H enactment.

If either of these conditions is fulfilled the later law, *even though general,* will prevail.

The principles enunciated in Chapter 9 of 'Maxwell on the Interpretation of Statutes' are to the same effect: A

> "A later statute may repeal an earlier one either expressly or by implication. But repeal by implication is not favoured by the courts ..... If, therefore, earlier and later statutes can reasonably be construed in such a way that both can be given effect to, this must be done..... If, however, the provisions of a later enactment are so inconsistent with or repugnant to the provisions of an earlier one that the two cannot stand together, the earlier is abrogated by the later..... Wherever Parliament in an earlier statute has directed its attention to an individual case and has made provision for it unambiguously, there arises a presumption that if in a subsequent statute the Legislature lays down a general principle, that general principle is not to be taken as meant to rip up what the Legislature had before provided for individually, *unless an intention to do so is specially declared.*" (emphasis supplied) B C D

The same principles have been thus reiterated in Chapter 15 of 'Craies on Statute Law:

> "Parliament, in the exercise of its supreme legislative capacity, can extend, modify, vary, or repeal Acts passed in the same or previous sessions.....The provisions of an earlier Act may be revoked or abrogated in particular cases by a subsequent Act, either from the express language used being addressed to the particular point, or from implication or inference from the language used.....Where two Acts are inconsistent or repugnant, the latter will be read as having impliedly repealed the earlier. The court leans against implying a repeal; unless two Acts are so plainly repugnant to each other that effect cannot be given to both at the same time, a repeal will not be implied. Special Acts are not repealed by general Acts unless there is a necessary inconsistency in the two Acts standing together. The latest expression of the will of Parliament must always prevail. It does not matter whether the earlier or the latter enactment is public, local and personal, or private, or is penal or deals with civil rights only, and the rule is equally applicable to Orders in Council or Rules of Courts if they have statutory force and are made under authority empowering the rule-makers to supersede prior enactments as to procedure. Before coming to the conclusion that there is a repeal by implication the court must be satisfied that the two enactments are so inconsistent or repugnant that they cannot stand together before they can, from the Language of E F G H

A the later, imply the repeal of an express prior enactment—i.e., the repeal must, if not express, flow from necessary implication.. .....But the rule must not be pressed too far, for, as Bramwell L. J. said in *Pellas* v. *Neptune Marine Insurance Co.*, (1880) 5 C. P. D. 34 (40), 'a general statute may repeal a particular statute.' And if a special enactment, whether it be in
B a public or a private Act, and a subsequent general Act are absolutely repugnant and inconsistent with one another, the courts have no alternative but to declare the prior special enactment repealed by the subsequent general Act."

The criteria deducible from the texts of the three standard works
C just above quoted are stated below :

(i) The legislature has the undoubted right to alter a law already promulgated by it through subsequent legislation.

(ii) A special law may be altered, abrogated or repealed by a later general law through an express provision.
D

(iii) A later general law will override a prior special law if the two are so repugnant to each other that they cannot co-exist even though no express provision in that behalf is found in the general law.

(iv) It is only in the absence of an express provision to the con-
E trary and of a clear inconsistency a special law will remain wholly unaffected by a later general law.

So let us see whether proposition (b) forming part of conclusion I arrived at by the High Court conform to these criteria. As already noticed section 11 is one of the provisions of the L. I. C. Act which
F deal with terms and conditions of service of the employees of the Corporation. Sub-section (1) of that section declares that in so far as a transferred employee is concerned, he shall "hold his office therein by the same tenure, at the same remuneration and upon the same terms and conditions.....as he would have held the same..... .....if this Act had not been passed.....". This provision does
G certainly not exclude the application of the I. D. Act and on the other hand, preserves it in so far as it finds expression in the conditions of service of the concerned transferred employee prior to his absorption in the Corporation. But the sub-section does not stop there and specifically qualifies and limits the provision thus :

H ".....unless and until his employment in the Corporation is terminated or until his remunerative terms and conditions are duly altered by the Corporation."

This qualification gives power to the Corporation to "duly alter the terms and conditions of service of the transferred employees and obviously means that once such power is exercised, 'the duly altered' terms and conditions of service shall replace those hithertofore governing such employees. That this is what sub-section (1) clearly means was thus stated by Gajendragadkar, J., (as he then was) in *Life Insurance Corporation of India* v. *Sunil Kumar Mukherjee & Ors,*(1)

> "The scheme of section 11(1) is thus clear. With the transfer of the controlled business from the insurer to the Corporation, the employees of the former became the employees of the latter, but they were governed by the same terms and conditions until they were altered by the latter." (emphasis supplied)

Now the word 'duly' means properly, regularly or in due manner. In the context in which it is used it may legitimately be given even a more restricted meaning, namely, in accordance with law. The case put forward on behalf of the employees is that the only law contemplated here is the I. D. Act specially because the *non-obstante* clause occurring in sub-section (2) does not govern, and is conspicuous by its absence from, sub-section (1) and that the expression "by the Corporation" does not mean "by the Corporation unilaterally". This contention is devoid of force for the simple reason that if reference to the provisions of the I. D. Act alone was contemplated and the alterations envisaged were merely such as could be achieved by a settlement or award resulting from a compliance thereof, not only would the expression "by the Corporation" become redundant (which would not be a situation conforming to the well-known principle of interpretation of statutes that a construction which leaves without effect any part of the language of a statute will normally be rejected) but the express provisions of clause (bb) of sub-section (2) of section 49 of the L. I. C. Act, which invest the Corporation with power to make regulations (albeit with the approval of the Central Government) laying down the terms and conditions of service of the transferred employees would also be rendered otiose. To the extent, therefore, that section 11(1) read with that clause confers on the Corporation the power to alter the terms and conditions in question—a power not enjoyed by it under the provisions of the I. D. Act—it is inconsistent with the I. D. Act and being a later law, would override that Act despite the absence of the *non-obstante* clause, the inconsistency having arisen from express language and not from mere implication.

(1) [1964] 5 S.C.R. 528.

A But the matter does not end here as sub-sections (2) and (4) of section 11 and clause (b) of sub-section (2) of section 49 of the L. I. C. Act pose other insurmountable hurdles in the way of the acceptance of proposition (b). The scope of sub-section (2) of section 11 was stated in *Life Insurance Corporation of India* v. *Sunil* B *Kumar Mukherjee & Ors* (supra) by Gajendragadkar, J., in the following terms :

> "Section 11(2) as it originally stood was substantially modified in 1957, and the plain effect of the provisions contained in the said sub-section as modified is that the Central Government is C given the power to alter (whether by way of reduction or otherwise) the remuneration and the other terms and conditions of service to such extent and in such manner as it thinks fit. *It is significant that this power can be exercised by the Central Government notwithstanding anything contained in sub-section* (1) *or in the Industrial Disputes Act,* 1947, or in any other law, D *or in any award, settlement or agreement for the time being in force.* It was thought that *for a proper functioning of the Corporation it was essential to confer upon the Central Government an overriding power to change the terms and conditions of* employees who were wholly or mainly employed by the insurers prior to the appointed day. Having conferred such wide power E on the Central Government, section 11(2) further provides that if the alternation made by the Central Government in the terms and conditions of his service is not acceptable to any employee, the Corporation may terminate his employment by giving him compensation equivalent to three months' remuneration unless F the contract of service with such employee provides for a shorter notice of termination. It is thus clear that in regard to cases fall under section 11(2), if as a result of the alteration made by the Central Government any employee does not want to work with the Corporation, he is given the option to leave its employment on payment of compensation provided by the last part of G section 11(2). Thus, the scheme of the two sub-sections of section 11 is clear. The employees of the insurers whose controlled business has been taken over, become the employees of the Corporation, then their terms and conditions of service continue until they are altered by the Central Government, and if the alteration made by the Central Government is not accept- H able to them, they are entitled to leave the employment of the Corporation on payment of compensation as provided by section 11(2)." (emphasis supplied)

In other words sub-section (2) of section 11 not only given to the Central Government the power to alter the terms and conditions of service of the employees of the Corporation in certain situations, and to alter them even to the detriment of such employees, to such extent and in such manner as it thinks fit, but also states in so many words that such power shall be exercisable— A

> "Notwithstanding anything contained in sub-section (1) or in the Industrial Disputes Act, 1947 or in any other law for the time being in force, or in any award, settlement or agreement for the time being in force." B

The mandate of the legislature has been expressed in clear and unambiguous terms in this *non-obstante* clause and is to the effect that the power of the Central Government to alter conditions of service of the employees of the Corporation shall be wholly unfettered and that any provisions to the contrary contained in the I. D. Act or for that matter, in any other law for the time being in force, or in any award, settlement, or agreement for the time being in force, would not stand in the way of the exercise of that power even if such exercise is to the detriment of the employees of the Corporation. The conferment of the power in thus in express supersession of the I. D. Act and of any settlement made thereunder. The provisions of that Act and the two settlements of 1974 must, therefore, yield to the dictates of section 11(2) and to the exercise of the power conferred thereby on the Central Government. C D E

Sub-section (4) of section 11 is again illuminating as in the matter of compensation to be paid to a transferred employee it provides specifically that the provisions of sub-section (2) of that section shall override those of the I. D. Act and of any other law for the time being in force and that no claim to the contrary shall be entertained by any court, tribunal or other authority. In the face of an express provision like this it is not open to the employees to contend that the law laid down in the I. D. Act and not sub-section (2) of section 11 would govern them. F

The rule-making power conferred on the Corporation by section 49 of the L. I. C. Act must also be held to be exercisable notwithstanding the provisions of the I. D. Act. In clause (b) of sub-section (2) thereof the method of recruitment of employees and agents of the Corporation and the terms and conditions of their service are stated to be matters which the Corporation may deal with through regulations subject, however, to the previous approval of the Central Government. This power is expressly conferred on the Corporation in addition to that with which it is invested under clause (bb) G H

of the same sub-section. If these two clauses were not meant to override the provisions of the I. D. Act on the same subject they would be completely meaningless, and that is a situation, as already pointed out, running directly counter to one of the accepted principles of interpretation of statutes. Besides, these two clauses are not to be read in isolation from section 11. The subject matter of the clauses and the section is overlapping and together they form an integrated whole. The clauses must, therefore, be read in the light of section 11. Sub-section (1) of that section confers power on the Corporation to alter the terms and conditions of service of the transferred employees and by necessary implication gives a go-bye to the I. D. Act which is again expressly superseded by sub-section (2) of that section in so far as the Central Government has been invested with the power in certain circumstances to vary the terms and conditions of service of the Corporation's employees. When the two clauses, therefore, say that the Corporation shall have the power to frame regulations in regard to the terms and conditions of its employees including transferred employees, subject, of course, to previous approval of the Central Government, the power may well be exercised in conformity with the provisions of section 11. And if it is so exercised the resultant regulations cannot be said to go beyond the limits specified in the statute. In this view of the matter *Hukam Chand etc.* v. *Union of India and others,*(1) and *B. S. Vadera* v. *Union of India & Ors,*(2) which lay down that the authority vested with the power of making subordinate legislation must act within the limits of and cannot transgress its power, are of no help to the case of the employees on whose behalf they have been cited.

Another proposition put forward by learned counsel for the employees may be noticed here. It was contended that section 49 conforms on the Corporation "ordinary" powers of framing subordinate legislation and that the Corporation has not been invested with any right to unilaterally promulgate a regulation altering the conditions of service of its employees to their detriment and that such regulations cannot override the provisions of the I. D. Act and the settlements reached thereunder. Reliance for the proposition was placed on *U. P. State Electricty Board and Ors.* v. *Hari Shanker Jain and Ors.*(3) and *Bangalore Water-Supply & Sewerage Board, etc.* v. *R. Rajappa & Others,*(4). In the former the case of the employees was that they were governed by the Industrial Employment (Standing Orders) Act which, according to them, was a special Act laying down

(1) A.I.R. 1972 S.C. 2427.
(2) [1968] 3 S.C.R. 575.
(3) [1979] 1 S.C.R. 355.
(4) [1978] 3 S.C.R. 207.

provision in relation to their conditions of service and which could not, therefore, be superseded by section 79 of the Electricity Supply Act, 1948. In holding that the section last mentioned was a general law which did not override the provisions of the Industrial Employment (Standing Order) Act, this court observed :

> "Chapter VII (from section 70 to section 83) which is headed "Miscellaneous" contains various miscellaneous provisions amongst which are section 78 which empowers the Government to make rules and section 79 which empowers the Board to make regulations in respect of matters specified in clauses (a) to (k) of that section. Clause (c) of section 79 is 'the duties of Officers and servants of the Board, and their salaries, allowances and other conditions of service'. This, of course is no more than the ordinary general power, with which every employer is invested in the first instance, to regulate the conditions of service of his employees. It is an ancillary or incidental power of every employer. The Electricity Supply Act does not presume to be an Act to regulate the conditions of service of the employees of State Electricity Boards. It is an Act to regulate the coordination Development of electricity. It is a special Act in regard to the subject of development of electricity, even as the Industrial Employment (Standing Orders) Act is a special Act in regard to the subject of conditions of service of workmen in industrial establishments. If section 79(c) of the Electricity Supply Act generally provides for the making of regulations providing for the conditions of service of the employees of the Board, it can only be regarded as a general provision which must yield to the special provisions of the Industrial Employment (Standing Orders) Act in respect of matters covered by the latter Act."

Quite clearly there was no provision in the Electricity Supply Act such as we find in section 11 of the L. I. C. Act which, as already shown, is a special law in relation to the terms and conditions of service of the employees of the Corporation very much in derogation of what the I. D. Act lays down and the case cited, therefore, presents no parallel to the case in hand.

In *Bangalore Water-Supply & Sewerage Board, etc.* v. *R. Rajappa & Others* (supra) the question was whether the employees of a statutory Corporation would or would not be governed by the provisions of the I. D. Act. The question was answered in the affirmative by this Court and Beg, C.J., while concurring with Bhagwati, Krishna Iyer and Desai, JJ., on that point, observed :

A "I am impressed by the argument that certain public utility services which are carried out by governmental agencies or corporations are treated by the Act itself as within the sphere of industry. *If express rules under other enactments govern the relationship between the State as an employer and its servants as employees it may be contended; on the strength of such provisions, that a particular set of employees are outside the scope of the Industrial Disputes Act for that reason.* The special excludes the applicability of the general. We cannot forget that we have to determine the meaning of the term 'industry' in the context of and for the purposes of matters provided for in the Industrial Disputes Act only.....Hence, to artificially exclude State-run industries from the sphere of the Act, *unless statutory provisions, expressly or by a necessary implication, have that effect, would not be correct.*" (emphasis supplied)

Far from assisting the case of the employees these observations only support the conclusion arrived at by me above in as much as they specifically state that if express provision has been made under a particular enactment governing the relationship of an employer and his employees, such special provision would govern those employees in supersession of the dictates of the I. D. Act.

9. I thus hold that section 11 and clauses (b) and (bb) of sub-section (2) of section 49 of the L. I. C. Act were intended to be and do constitute an exhaustive and overriding law governing the conditions of service of all employees of the Corporation including transferred employees. Proposition (b) forming part of conclusion I is consequently found to be incorrect.

10. Conclusion I reached by the High Court being faulty in both its material aspects, the three corollaries flowing from it and set out above as part of conclusion II must also be held to be unsustainable.

Section 23 of the L. I. C. Act, envisages employment of persons by the Corporation no doubt implies settlement of conditions of service but that does not mean that once a settlement is arrived at the same is not liable to be altered except by another settlement reached under section 18 of the I. D. Act. As already pointed out the provisions of sub-sections (1), (2) and (4) of section 11 of the L. I. C. Act and clauses (b) & (bb) of sub-section (2) of section 49 thereof have overriding effect and the terms and conditions of service of the employees of the Corporation forming part of a settlement under the I. D. Act cannot last after they have been altered in exercise of the powers conferred on the Corporation or the Central Government by

those provisions, as was done when the new regulation 58 was framed under section 49 by the Corporation and the new clause 9 was inserted in the 1957 Order by the Central Government. Nor can any action taken under sections 19(2) and 9A of the I. D. Act have any relevance to the exercise of those powers so long as such exercise conforms to the provisions of the L. I. C. Act.

Conclusion II is, therefore, held to be erroneous in its entirety.

11. Conclusion III also does not stand scrutiny as the reliance of the High Court on *Madan Mohan Pathak's* case (supra) for support to proposition (b) stated above is wholly misplaced. That case was decided by a Bench of seven judges of this Court before whom were canvassed two main points which were thus crystallized by Bhagwati, J., who delivered the judgment on behalf of himself, Iyer and Desai, JJ. :

> "A. The right of class III and Class IV employees to annual cash bonus for the years 1st April, 1975 to 31st March, 1976 and 1st April, 1976 to 31st March, 1977, under clause 8(ii) of the Settlement was property and since the impugned Act provided for compulsory acquisition of this property without payment of compensation, the impugned Act was violative of Article 31(2) of the Constitution and was hence null and void."

> "3. The impugned Act deprived Class III and Class IV employees of the right to annual cash bonus for the years 1st April, 1975 to 31st March, 1976 and 1st April 1976 to 31st March, 1977, which was vested in them under clause 8(ii) of the Settlement and there was, therefore, clear infringement of their fundamental right under Article 19(1)(f) and since this deprivation of the right to annual cash bonus, which was secured under a Settlement arrived at as a result of collective bargaining and with full and mature deliberation on the part of the Life Insurance Corporation and the Central Government after taking into account the interests of the policy-holders and the community and with a view to approximating towards the goal of a living wage as envisaged in Article 4 of the Constitution, amounted to an unreasonable restriction, the impuged Act was not saved by Article 19(5) and hence it was liable to be struck down as invalid."

In relation to point A the argument raised on behalf of the Corporation was that under the then existing regulation 58 the grant of annual cash bonus was subject to such directions as the Central Government might issue and that the right of Class III and Class IV

A employees to receive such bonus could not therefore be said to be an absolute right which was not liable to be set at naught by any direction that might be issued by the Central Government. Bhagwati, J., appreciated the force of regulation 58 and remarked :

B "Regulation 58 undoubtedly says that non-profit sharing bonus may be granted by the Life Insurance Corporation to its employees, subject to such directions as the Central Government may issue and, therefore, if the Central Government issues a direction to the contrary, non-profit sharing bonus cannot be granted by the Life Insurance Corporation to any class of C employees."

He further observed, however :

"But here, in the present case, grant of annual cash bonus by the Life Insurance Corporation to Class III and Class IV D employees under Cl. 8(ii) of the Settlement was approved by the Central Government as provided in Cl. 12 and the 'direction' contemplated by Regulation 58 was given by the Central Government that annual cash bonus may be granted as provided in Cl. 8(ii) of the Settlement. It was not competent to the Central Government thereafter to issue another contrary direction E which would have the effect of compelling the Life Insurance Corporation to commit a breach of its obligation under S. 18, sub-s. (1) of the Industrial Disputes Act, 1947 to pay annual cash bonus in terms of Cl. 8(ii) of the Settlement."

F It was further held by Bhagwati, J., that clause 8(ii) was a clause independent of clause 8(i) and was subject only to the approval mentioned in clause 12(2) which, as already pointed out, had been accorded by the Central Government He went on to hold that the right to bonus for the two years (1st April, 1975 to 31st March, 1976 and 1st April, 1976 to 31st March, 1977) was property G of which the concerned employees could not be deprived without adequate compensation. Repelling another argument advanced on behalf of the Corporation, Bhagwati, J., held that the extinguishment of the right to bonus really meant a transfer of ownership to the Corporation of the debt available to the employees under that right and that such extinguishment amounted to acquisition of property H without compensation so that it was hit by article 31(2) of the Constitution of India. In view of this conclusion Bhagwati, J., considered it unnecessary to consider point B.

Chandrachud, Fazal Ali and Shinghal, JJ., agreed with the conclusion arrived at by Bhagwati, J., on point A. Beg, C.J., however, delivered a separate judgment seriously doubting the correctness of the proposition enunciated by Bhagwati, J., that the extinguishment of the right to bonus amounted to acquisition of property, and deciding point B in favour of the employees with a finding that in view of the provisions of article 43 of the Constitution the 1976 Act was vitiated by the provisions of article 19(1)(f) of the Constitution and was not saved by clause (6) of that article. Beg, C.J., was further of the opinion that the 1976 Act was violative of article 14 of the Constitution.

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Three factors are noteworthy :

(a) Points A and B detailed above were specifically limited to the duration of the settlements as appearing in clause 12 thereof and the judgment, therefore, does not cover any period subsequent to 31st March, 1977, as has been rightly contended by learned counsel for the Corporation.

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(b) No finding at all was given nor was any observation made by Bhagwati, J., to the effect that sections 11 and 49 of the L.I.C. Act or the action taken thereunder (the promulgation of the new regulation 58 and the new clause 9 of the 1957 Order) was ineffective against the operation of the provisions of the I.D. Act or of the 1974 settlements. *On the other hand, his judgment very specifically proceeded on the ground that the two settlements had to and did fully conform to the provisions of regulation* 58 *in as much as the Central Government had accorded its approval to them.* The High Court thus not only erred in observing that those settlements had been upheld by this Court "even though it did not advert to regulation 58", but also failed to take notice of the clearly expressed opinion of Bhagwati, J., that bonus under the two settlements could not have been paid if they had run counter to the requirements of regulation 58. Far from supporting corollary (b) of conclusion II, therefore, *Madan Mohan Pathak's* case rules to an opposite effect.

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(c) Although Bhagwati, J., did hold clearly (and, if I may say so with all respect, quite correctly) that sub-clause (ii) of clause 8 of the 1974 settlements stood independently of sub-clause (i) thereof, his judgment contains no finding

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A whatsoever to the effect that the conditions of service laid down in those settlements could be varied only by a fresh settlement or award made under the provisions of the I.D. Act and that till then sub-clause (ii) aforesaid would remain in full force. The High Court clearly erred in observing that such a finding formed part of the majority B judgment in *Madan Mohan Pathak's* case.

Conclusion III also, therefore, is negatived.

12. We now take up for consideration the High Court's conclusion IV which is based on the interpretation of section 19 of the C I.D. Act by this Court in *South Indian Bank Ltd.* v. *A. R. Chacko* (supra). That section may with advantage be extracted here *in extenso* for facility of reference :

"19(1) A settlement shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date on which the memorandum D of the settlement is signed by the parties to the dispute.

"(2) Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months from the date on which the memorandum of settlement is signed by the parties to the dispute, E and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

F "(3) An award shall, subject to the provisions of this section, remain in operation for a period of one year from the date on which the award becomes enforceable under section 17A :

"Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit :

G "Provided further that the appropriate Government may, before the expiry of the said period, extend the period of operation by any period not exceeding one year at a time as it thinks fit so, however, that the total period of operation of any award does not exceed three years from the date on which it came into operation.

H "(4) Where the appropriate Government, whether of its own motion or on the application of any party bound by the award, considers that since the award was made, there has been

a material change in the circumstances on which it was based, the appropriate Government may refer the award or a part of it to a Labour Court, if the award was that of a Labour Court or to a Tribunal, if the award was that of a Tribunal or of a National Tribunal for decision whether the period of operation should not, by reason of such change, be shortened and the decision of Labour Court or the Tribunal, as the case may be, on such reference shall be final.

"(5) Nothing contained in sub-section (3) shall apply to any award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by the award.

"(6) Notwithstanding the expiry of the period of operation under sub-section (3), the award shall continue to be binding on the parties until a period of two months has elapsed from the date on which notice is given by any party bound by the award to the other party or parties intimating its intention to terminate the award.

"(7) No notice given under sub-section (2) or sub-section (6) shall have effect unless it is given by a party representing the majority of persons bound by the settlement or award, as the case may be."

Sub-section (2) of the section makes it clear that a settlement reached under the I.D. Act shall be binding on the parties thereto—

(a) for the *period agreed upon*, and if no such period is agreed upon for a period of six months from the date on which the memorandum of settlement is signed by the parties; and

(b) for a further period ending with a span of two months reckoned from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties thereto to the others.

Sub-sections (3), (4) and (5) provide for the period of operation of an award and its extension and reduction, while sub-section (6) lays down that after such period has expired the award shall continue to be binding on the parties to it for a further period ending with a span of two months reckoned in the same manner as the span mentioned earlier.

In so far as the explicit language of the section is concerned there is no ambiguity involved. The difficulty arises regarding the period (hereinafter called the 3rd period) subsequent to the date

A on which the said span of two months expires in either case, because the I.D. Act is silent about it and it is that difficulty which this Court resolved in *Chacko's* case. The parties before the Court in that case were the South Indian Bank Ltd. and one of its clerks named A. R. Chacko who had been promoted as an accountant with effect from the 13th July 1959 and claimed certain allowances for
B periods subsequent to that date in terms of what is called the Sastry award. On behalf of the Bank reliance was placed on section 4 of the Industrial Disputes (Banking Companies) Decision Act, 1955 which runs thus :

> "Notwithstanding anything contained in the Industrial
C Disputes Act, 1947, or the Industrial Disputes (Appellate Tribunal) Act, 1950 the award as now modified by the decision of the Labour Appellate Tribunal in the manner referred to in section 3 shall remain in force until March 31, 1959."

and a contention was raised that the *non-obstante* clause contained
D in this section made the provisions of section 19(6) of the I.D. Act inapplicable to the Sastry award which therefore, became dead for all purposes after the 31st March, 1959. Repelling the contention this Court observed :

> "The effect of section 4 of the Industrial Disputes (Banking
E Companies) Decision Act is that the award ceased to be in force after March 31, 1959. That however has nothing to do with the question as to the period for which it will remain binding on the parties thereafter. The provision in section 19(6) as regards the period for which the award shall continue to be binding on the parties is not in any way affected by section 4
F of the Industrial Disputes (Banking Companies) Decision Act, 1955."

The Court then proceeded to consider specifically the situation that would obtain in the 3rd period in relation to an award and held :

> "Quite apart from this, however, it appears to us that
G even if an award has ceased to be in operation or in force and has ceased to be binding on the parties under the provisions of section 19(6) it will continue to have its effect as a contract between the parties that has been made by industrial adjudication in place of the old contract. So long as the award remains in operation under section 19(3), section 23(c) stands in the way of any strike by the workmen and lock-out by the employer
H in respect of any matter covered by the award. Again so long as the award is binding on a party, breach of any of its terms

will make the party liable to penalty under section 29 of the Act, to imprisonment which may extend to six months or with fine or with both. After the period of its operation and also the period for which the award is binding have elapsed section 23 and section 29 can have no operation. We can however see nothing in the scheme of the Industrial Disputes Act to justify a conclusion that merely because these special provisions as regards prohibition of strikes and lock-outs and of penalties for breach of award cease to be effective the new contract as embodied in the award should also cease to be effective. On the contrary, the very purpose for which industrial adjudication has been given the peculiar authority and right of making new contracts between employers and workmen makes it reasonable to think that even though the period of operation of the award and the period for which it remains binding on the parties—in respect of both of which special provisions have been made under sections 23 and 29 respectively—may expire, the new contract would continue to govern the relations between the parties *till it is displaced by another contract.* The objection that no such benefit as claimed could accrue to the respondent after March 31, 1959 must therefore be rejected." (emphasis supplied)

It is the underlined portion of this paragraph which impelled the High Court to come to the conclusion that even a notice under section 19(6) of the I.D. Act would not terminate a settlement (which, according to the High Court, stands on the same footing as an award and, in fact is indistinguishable therefrom for the purpose of section 19) but would have the effect of merely paving the way for fresh negotiations resulting ultimately in a new settlement—a conclusion which has been seriously challenged on behalf of the Corporation with the submission that *Chacko's* case has no application whatsoever to the present controversy in as much as the special law comprised of section 11 and 49 of the L.I.C. Act fully covers the situation in the 3rd period following the expiry of the 1974 settlements. The submission is well based. In *Chacko's* case this Court was dealing with the provisions of the I.D. Act alone when it made the observations last extracted and was not concerned with a situation which would cover the 3rd period in relation to an award (or for that matter a settlement) in accordance with a specific mandate from Parliament. The only available course for filling the void created by the Sastry award was a continuation of its terms till they were replaced by something else legally enforceable which, in the circumstances before the Court, could only be another

A contract (in the shape of an award or a settlement), there being no legal provision requiring the void to be filled otherwise. In the present case the law intervenes to indicate how the void which obtains in the 3rd period shall be filled and, if it has been so filled, there is no question of its being filled in the manner indicated in *Chacko's* case wherein, as already pointed out, no such law was B available. The observations in that case must thus be taken to mean that the expired award would continue to govern the parties till it is displaced by another contract *or by a relationship otherwise substituted for it in accordance with law.*

C 13. *Indian Link Chain Manufacturers Ltd.* v. *Their Workmen*(1) which also the High Court pressed into service in arriving at conclusion IV is really not relevant for the present discussion as it deals only with the two periods expressly covered by sub-sections (2) and (6) of section 19 of the I.D. Act and not at all with the 3rd period. The same is true of *Shukla Manseta Industries Pvt. Ltd.* v. *The Workmen Employed under it* (2) in which the only question D canvassed before the Court and answered by it was whether the law required that notice of termination under section 19(2) had to be given only after the date of expiry of a settlement. However, it may be pointed out that in both those cases as also in *Haribhau Shinde and another* v. *F. H. Lala Industrial Tribunal, Bombay and another,*(3) which has been relied upon by learned counsel for the E employees, this Court was not concerned with any special law as I find in a combined reading of sections 11 and 49 of the L.I.C. Act; and for that reason also none of these three decisions is of any assistance for the determination of the point in controversy before us.

F 14. Some arguments were addressed to us on a proposition advanced by learned counsel for the Corporation to the effect that a settlement could not be treated at par with an award for the purpose of the I.D. Act and that *Chacko's* case, therefore, could furnish no proper basis for the High Court's conclusion IV. I do not propose to deal with that proposition which is merely of academic G interest in view of the material distinction already pointed out, namely, that in the present case there is a special mandate by Parliament to fill the void of the 3rd period which did not obtain in *Chacko's* case. However, I may briefly dwell on another aspect of the same distinction and that consists of the circumstance that while in *Chacko's* case the employer was the South Indian Bank

H (1) [1972] 1 S.C.R. 790.

(2) [1978] 1 S.C.R. 249.

(3) A.I.R. 1970 Bom. 215.

Ltd.—a non-statutory banking company—the employer before us now is the creation of the L.I.C. Act itself and therefore a statutory corporation. This circumstance coupled with the contents of the L.I.C. Act leads to the following deductions, as laid down in *Suchdev Singh & Ors* v. *Bhagatarm Sardar Singh Raghuvanshi and anr.*(1).

(a) The Corporation carries on the exclusive business of life insurance as an agency of the Government by which it is managed and which alone can dissolve it. It is, therefore, an authority within the meaning of article 12 of the Constitution of India. The status of persons serving the Corporation thus carries with it the element of public employment.

(b) The L.I.C. Act enables the Corporation to make regulations which may provide, *inter alia* for the terms and conditions of service of its employees. Such regulations cannot be equated with those framed by a company incorporated under the Companies Act and, on the other hand, have the force of law which must be followed both by the Corporation and those who deal with it.

It is obvious that an application of these deductions to the situation prevailing in the present case would rule out the relevance of *Chacko's* case because regulation 58 framed under section 49 of the L.I.C. Act specifically governs the 3rd period following the expiry of the 1974 settlements.

15. I need not go into the correctness or otherwise of conclusion V reached by the High Court as no arguments in relation thereto were addressed to us. I shall now proceed, however, to discuss certain other contentions raised before us on behalf of the employees although the same were not canvassed before the High Court.

16. It was argued that both sub-sections (1) and (2) of section 11 of the L.I.C. Act relate exclusively to the case of employees and that sub-section (2) does not embrace the case of employees recruited under section 23. In this connection an analysis of section 11 would be helpful. In so far as sub-section (1) is concerned it is quite clear that it cannot be extended to cover employees recruited under section 23, and that it is restricted in its operation only to the transferred employees. This follows from the clear language used. Sub-section (2) however, is differently worded. It may be split up as follows :

(a) The Central Government may alter (whether by way of reduction or otherwise) the remuneration and the other

(1) [1975] 3 S.C.R. 619.

A terms and conditions of service (of .....) to such extent and in such manner as it thinks fit.

(b) The Central Government may take the action detailed in (a) above notwithstanding anything contained in sub-section (1) or the I.D. Act, or in any other law for the time being in force or in any award, settlement or agreement B for the time being in force.

(c) The action detailed in (a) can be taken only if the Central Government is satisfied —

(i) that for the purpose of securing uniformity in the scales of remuneration and the other terms and condi- C tions of service applicable to transferred employees, it is necessary so to do;

or

(ii) that, in the interests of the Corporation and its policy-holders a reduction in the remuneration payable or a D revision of the other terms and conditions of service applicable, to employees or any class of them is called for.

According to learned counsel for the employees the expression "employees or any class of them" occurring in sub-clause (i) of the E above analysis must be interpreted to mean transferred employees or any class thereof and the expression does not cover the employees recruited under section 23. Support for the contention is sought from the circumstance that the section is not only a part of Chapter IV of the L.I.C. Act, which is headed "Transfer of existing Life Insurance Business to the Corporation" but also carries the marginal F note "Transfer of service of existing employees of insurers to the Corporation". This circumstance is wholly immaterial not only for the reason that headings of chapters and marginal notes cannot be looked into for the purpose of ascertaining the intention of the Legislature unless the language employed by it is ambiguous but also because the absorption of the transferred employees into the Corpo- G ration may itself necessitate a change in the conditions of service of the employees recruited under section 23. It is not disputed that transferred employees, amongst themselves, were governed by widely different conditions of service and that was so for the simple reason that they had come from different companies, each having its own scales of pay applicable to its servants. Then the Corporation came H into existence, recruitment under section 23 need not have waited for action under section 11(2) and the process of examination of different scales of pay of the transferred employees as compared to

those pertaining to hands recruited under section 23, as also the appropriate action which should have been taken as a result of such examination, was bound to be time-consuming; and the result may well have entailed a decision to equalise the scales of pay not only by raising or reducing those of the transferred employees but also those of the employees recruited under section 23. And that appears to be only reason why the legislature chose the comprehensive expression "employees or any class of them" in sub-section (2) in spite of the fact that not only in sub-sections (1) and (4) but also in sub-section (2) itself the detailed description "employee of an insurer whose controlled business has been transferred to and vested in the Corporation" or words to that effect have been used to denote a transferred employee. Again, wherever a transferred employee was meant but a detailed description in relation to him was not given, the expression "such employee" was used with reference to that description. Examples in point are the proviso to sub-section (1) and the latter part of sub-section (4). If the expression "employees or any class of them" was intended to be restricted to transferred employees, it would certainly have been preceded by the word 'such' so that it could be referable to the detailed description of employees of that kind occurring in an earlier part of the sub-section. From the circumstance that no such device was pressed into service the conclusion is irresistible that the expression last mentioned was intended to convey a meaning different from that which was deducible from the detailed description otherwise employed in the section— a conclusion based on the well-known principle of interpretation of statutes thus stated by Maxwell in Chapter 12 of his celebrated work earlier cited :

> "From the general presumption that the same expression is presumed to be used in the same sense throughout an Act or a series of cognate Acts, there follows the further presumption that a change of working denotes a change in meaning."

17. The matter may also be looked at from another angle. As stated in clause (c) of the above analysis the Central Government is empowered to take action under sub-section (2) of section 11 if it is satisfied about the existence of either of two conditions. It may take such action if it is satisfied that for the purpose of securing uniformity in the scales of remuneration, etc., applicable to transferred employees it is necessary to do so. But then if no action is intended to be taken for that purpose it may still be taken provided the Central Government is satisfied that it is in the interests of the Corporation and its policy-holders to make a reduction in the remuneration payable or a revision of the other terms and conditions

A applicable to its employees. Now the first condition which envisages the securing of uniformity in the scales of remuneration clearly applies to transferred employees only but the same is not true of the second condition. At a particular juncture in the life of the Corporation it may become necessary to make a reduction in the remuneration payable to its employees or a revision of the other
B terms and conditions of service applicable to them. But then this must follow from the satisfaction of the Government that it is in the interest of the Corporation and its policy-holders to do so. It is obvious that this condition envisages the change in conditions of service, etc., of all the employees of the Corporation and not only
C transferred employees. If it were otherwise the sub-section may well lead to discrimination and render the provision unconstitutional. Even if, therefore, the expression "employees or any class of them" occurring in sub-section (2) was capable of being regarded as ambiguous, the Court would choose that interpretation which would conform to the constitutionality of the provision. This well known principle of
D statutory construction was made use of by a learned single Judge of the Calcutta High Court in *Himrangsu Chakraborty and others* v. *Life Insurance Corporation of India and others*(1) wherein he dealt with sub-section 11(2) thus :

> "According to Mr. Chatterjee section 11(2) of the Act contains
> E two limbs. The first limb confers power on the Central Government to revise the terms and conditions of service of the employees of the Corporation. Its power is, however, confined only to those employees whose services have been transferred to and vested in the Corporation by reason of the commencement of the Act. The second limb confers power on the
> F Central Government to alter the terms and conditions of the service applicable to all employees of the Corporation irrespective of whether they are transferred employees or are directly recruited after the inception of the Corporation. Strong emphasis is placed on the expression 'terms and conditions of service
> G applicable to employees of insurers whose controlled business has been transferred to and vested in the Corporation' and 'terms and conditions of service applicable to employees or any class of them'. Mr. Chatterjee submits that the latter clause does not contain the expression 'such employees' and therefore should be construed to confer a power on the Central Govern-
> H ment to alter the conditions of service of all employees.... In my view, this contention of Mr. Chatterjee is sound and should

(1) [1977] Lab. I.C. 622.

be accepted. On a plain reading of section 11(2) of the Act it seems to contain two distinct and separate powers. The first part relates to the power of the Central Government in relation to "transferred employees" whereas the second part appears to apply to all employees of the Corporation irrespective of whether they are transferred or directly recruited."

I find myself in complete agreement with this view for the reasons already stated.

18. In order to steer clear of the above interpretation of section 11(2) learned counsel for the employees put forward the argument that the word 'for' occurring in the section should not be read as a disjunctive and should be given the meaning 'and' so that the two clauses forming the conditions about which the Central Government has to be satisfied before it can act under the section are taken to be one single whole; but we do not see any reason why the plain meaning of the word should be distorted to suit the convenience or the cause of the employees. It is no doubt true that the word 'or' may be interpreted as 'and' in certain extraordinary circumstances such as in a situation where its use as a disjunctive could obviously not have been intended. (see *Mazagaon Dock Ltd.* v. *The Commissioner of Income-tax and Excess Profits Tax.*(1) Where no compelling reason for the adoption of such a course is, however, available, the word 'or' must be given its ordinary meaning, that is, as a disjunctive. This rule was thus applied to the interpretation of clause (c) of section 3(1) of the U.P. (Temporary) Control of Rent and Eviction Act, 1947 in *Babu Manohan Das Shah & Ors.* v. *Bishun Das,*(2) by Shelat, J. :

> "The clause is couched in simple and unambiguous language and in its plain meaning provided that it would be a good ground enabling a landlord to sue for eviction without the permission of the district Magistrate if the tenant has made or has permitted to be made without the landlord's consent in writing such construction which materially alters the accommodation or is likely substantially to diminish its value. The language of the clause makes it clear that the legislature wanted to lay down two alternatives which would furnish a ground to the landlord to sue without the District Magistrate's permission, that is, where the tenant has made such construction which would materially alter the accommodation or which would be likely to substantially diminish its value. The ordinary rule of construction is

(1) [1959] S.C.R. 848.
(2) [1967] 1 S.C.R. 836.

A provision of a statute must be construed in accordance with the language used therein unless there are compelling reasons, such as where a literal construction would reduce the provision to absurdity or prevent the manifest intention of the legislature from being carried out. There is no reason why the word 'or' should be construed otherwise than in its ordinary meaning."

B

In my view this reasoning is fully applicable to the case in hand and there is every reason why the word 'or' should be given its ordinary meaning. This was also the view taken by a learned single Judge of the Madras High Court in *K. S. Ramaswamy and anr.* v. *Union of India and ors.*(1), of which I fully approve.

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19. Still another argument calculated to mould the interpretation of section 11(2) in favour of the employees was that the power conferred on the Central Government by it was intended to be used only once and that too for one purpose, namely, to achieve uniformity in the scales of pay, etc. In this connection our D attention was drawn to two factors, namely, that the words 'from time to time' forming part of the section as it originally stood were deleted therefrom when it was amended in 1957 and that while the amendment of the section at that time was under consideration of Parliament the then Finance Minister had given an assurance in that E behalf. The argument is wholly unacceptable to me. One good reason is available in the provisions of section 14 of the General Clauses Act which runs thus :

"14(1) Where, by any Central Act or Regulation made after the commencement of this Act, any power is conferred, then F unless a different intention appears, that power may be exercised from time to time as occasion requires.

"(2) This section applies also to all Central Acts and Regulations made on or after the fourteenth day of January, 1887."

G In view of the clear language of the section, no Central law, while conferring a power, need say in so many words that such power may be exercised from time to time; and if a law does make use of such an expression that would not change the position. The deletion of such an expression by the legislature at a given point H of time may, therefore, follow the detection of the superfluity and that would not mean, all by itself, that the legislature intended to

(1) [1977] 1 L.L.J. 211.

limit the exercise of such power to a single occasion. This is precisely the view that was taken by this Court in a similar situation in *Vasantlal Maganbhai Sanjanwala* v. *The State of Bombay and Others*(1). In that case the Court was dealing with secion 6(2) of the Bombay Tenancy and Agricultural Lands Act, 1948, which ran thus :

> "The Provincial Government may, by notification in the Official Gazette, fix a lower rate of the maximum rent payable by the tenants of lands situate in any particular area or may fix such rate on any other suitable basis as it thinks fit."

It was pointed out to the Court that in this section the words 'from time to time' which found a place in the corresponding section of the earlier tenancy legislation were missing although the expression 'from time to time' was retained in section 8(1) of the Act. The contention raised was that the power delegated under section 6(2) was intended to be used only once but was rejected as fallacious with the following observations :

> "Why the Legislature did not use the words 'from time to time' in section 6(2) when it used them in section 8(1) it is difficult to understand; but in construing section 6(2) it is obviously necessary to apply the provisions of section 14 of the Bombay General Clauses Act, 1904 (I of 1904). Section 14 provides that where by any Bombay Act made after the commencement of this Act any power is conferred on any Government then that power may be exercised from time to time as occasion requires. Quite clearly if section 6(2) is read in the light of section 14 of the Bombay General Clauses Act it must follow that the power to issue a notification can be exercised from time to time as occasion requires. It is true that section 14 of the General Clauses Act, 1897 (X of 1897), provides that where any power is conferred by any Central Act or Regulation then, unless a different intention appears, that power may be exercised from time to time as occasion requires. Since there is a specific provision of the Bombay General Clauses Act relevant on the point it is unnecessary to take recourse to section 14 of the Central General Clauses Act; but even if we were to assume that the power in question can be exercised from time to time unless a different intention appears we would feel no difficulty in holding that no such different intention can be attributed to the Legislature when it enacted section 6(2). It

(1) [1961] 1 S.C.R. 341.

A is obvious that having prescribed for a maximum by section 6(1) the Legislature has deliberately provided for a modification of the said maximum rent and that itself shows that the fixation of any maximum rent was not treated as immutable. If it was necessary to issue one notification under section 6(2) it would follow by force of the same logic that circumstances may B require the issue of a further notification. The fixation of agricultural rent depends upon so many uncertain factors which may vary from time to time and from place to place that it would be idle to contend that the Legislature wanted to fix the maximum only once, or, as Mr. Limaye concedes, twice. C Therefore the argument that the power to issue a notification has been exhausted cannot be sustained."

The language of section 14 of the General Clauses Act being identical with that of the Bombay General Clauses Act this reasoning is fully applicable to the interpretation of section 11(2) of the D L.I.C. Act. The same view was taken by a Division Bench of the Gujarat High Court in *Harivadan K. Desai and others* v. *Life Insurance Corporation of India and others*(1), in the following words :

"While construing a statutory provision, it is not permissible E to traverse beyond the language of the provision unless the legislative intent cannot be gathered from the clear and definite language of the provision. It is true that often Courts do look into the debates in the Legislature and also the marginal notes to ascertain the scope of a particular provision of the statute. But that is only in exceptional cases. The language of section 11(2) F is very clear. There is nothing to indicate or suggest even remotely that the powers vested in the Central Government under section 11(2) get exhausted when once the Central Government exercises that power. Section 14 of the General Clauses Act, 1897 further strengthens our view. Section 14 lays down that where by an Central Act or Regulation made after G the commencement of the Act, any power is conferred, then unless a different intention appears, that power may be exercised from time to time as occasion requires. We are unable to gather any different intention from section 11(2) so as to injunct the Government from exercising their power after the H issuance of the Blue Order; in other words, after they once exercised that power."

(1) [1977] Lab. I.C. 1072.

20. I may further point out that that part of the power to alter the terms and conditions of service of the Corporation's employees which the Central Government is authorised to exercise in the interests of the Corporation and its policy-holders must of necessity be a power which can be exercised as and when occasion so requires. A contrary view would lead to absurd results in certain given situations. Let us assume that the affairs of the Corporation did not present a rosy picture to begin with and that therefore, a drastic reduction in the scales of pay of its employees was called for and was achieved by an order made by the Central Government in exercise of its power under section 11(2). Does that mean that if later on the Corporation develops its business and makes sizeable progress in the way of earning profits, the power conferred on the Central Government would not be exerciseable to give better pay scales to the employees? An answer to this question in the negative would obviously not meet the exigencies of the situation and in my opinion leads to an absurdity. Again, if the scales of remuneration of the transferred employees are adjusted by the Central Government so as to smooth out anomalies and discrepancies, would that put an end to the exercise of the power so that it cannot be used subsequently for the amelioration of the service conditions of the employees when the affairs of the Corporation so warrant? To put such a restricted meaning on the language used does not appear to be warranted for any reason whatsoever.

21. In so for as the proceedings of Parliament and speeches made during the course thereof are concerned, they are not admissible for the purpose of interpretation of the resultant statute unless the language used therein is ambiguous and impels the Court to resort to factors outside the statute for the purpose of ascertaining the intention of the law-makers. This is what was clearly held by this Court in *Anandji Haridas & Co. Pvt. Ltd.* v. *Engineering Mazdoor Sangh & Anr.*,(1) by Sarkaria, J., who delivered the judgment on behalf of himself and Alagiriswami, J., and the observations made therein are worth repetition :

> "As a general principle of interpretation, where the words of a statute are plain, precise and unambiguous, the intention of the Legislature is to be gathered from the language of the statute itself and no external evidence such as Parliamentary Debates, Reports of the Committees of the Legislatures or even the statement made by the Minister on the introduction of a measure or by the framers of the Act is admissible to construe

(1) [1975] 3 S.C.R. 542.

A those words. It is only where a statute is not exhaustive or where its language is ambiguous, uncertain, clouded or susceptible of more than one meaning or shades of meaning, that external evidence as to the evils, if any, which the statute was intended to remedy, or of the circumstances which led to the pasing of the statute may be looked into for the purpose of B ascertaining the object which the Legislature had in view in using the words in question."

These observations amply cover the situation in hand. Section 11(2) suffers from no ambiguity either by reason of the omission therefrom of the expression "from time to time" or otherwise and it is, there- C fore, not permissible for a reference to be made to the speech of the then Finance Minister in the matter of interpretation of the section.

22. The next contention for the employees which raises a question of the *vires* of clause 9 of the 1957 Order and of regulation 58 is based on the following passage in the judgment of Beg, C.J., D in *M. M. Pathak's* case (supra) :

"He submits that article 43 casts an obligation on the State to secure a living wage for the workers and is part of the principles "declared fundamental in the governance of the country". In other words, he would have us use article 43 as E conferring practically a fundamental right which can be enforced. I do not think that we can go so far as that because, even though the directive principles of State policy, including the very important general ones contained in article 38 and 39 of the Constitution, give the direction in which the fundamental policies of the State must be oriented, yet, we cannot F direct either the Central Government or Parliament to proceed in that direction. Article 37 says that they 'shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.' Thus, even if they are not directly enforceable G by a court they cannot be declared ineffective. They have the life and force of fundamentals. The best way in which they can be, without being directly enforced, given vitality and effect in Courts of law is to use them as criteria of reasonableness, and therefore, of validity, as we have been doing. Thus, if progress towards goals found in articles 38 and 39 and 43 H is desired, there should not be any curtailment of wage rates arbitrarily without disclosing any valid reason for it as is the case here. It is quite reasonable, in my opinion, to submit that

the measure which seeks to deprive workers of the benefits of a settlement arrived at and assented to by the Central Government, under the provisions of the Industrial Disputes Act, should not be set at naught by an Act designed to defeat a particular settlement. If this be the purpose of the Act, as it evidently is, it could very well be said to be contrary to public interest, and therefore, not protected by article 19(6) of the Constitution."

These observations are of no help to the case of the employees as they were made in relation to the change of conditions of service of employees in an industrial establishment under a settlement which was *then in operation* and therefore, covered only the first period mentioned in section 19(2) of the I.D. Act— a period with which we are not concerned. As pointed out by Bhagwati, J., in his separate judgment, the bonus for the period up to the 31st March 1977 had actually vested in the employees and had become a debt due to them and that was why the majority of six held that the 1976 Act was violative of article 31, a view which Beg, C. J., doubted. Besides, the opinion expressed in the observations just above extracted, was perhaps not shared by the other six judges who chose not to decide the question as to whether the 1976 Act was or was not hit by articles 14 and 19 of the Constitution of India. In these premises the employees cannot draw any benefit from Beg, C. J.'s observations. On the other hand, no challenge to the *vires* of section 11(2) was made from either side and so long as the section itself is good the exercise of the power conferred by it cannot be attacked unless such exercise goes beyond the limits of the section, either in its content or manner. If the legislature was competent to confer a power on the Central Government to alter the conditions of service of the employees of the Corporation to their detriment or otherwise, the fact that the power was exercised only to cut down bonus would furnish no reason for striking down clause 9 of the 1957 order or regulation 58 as being violative of article 14 or 19.

23. Clause 9 of the 1957 Order was also attacked as contravening articles 14 and 16 of the Constitution of India for the reason that it applied only to transferred employees who were discriminated against in the matter of equality before the law and of opportunity of employment. That clause no doubt takes within its sweep only transferred employees because clause 2 of the 1957 Order specifically states that the Order is restricted in its operation to employees of that category; but then no question of any discrimination whatsoever is involved in as much as the transferred employees have not only not been treated differently from other employees of the Corporation

A but by reason of regulation 58 they have been placed fully at par with the latter. The argument would have had plausibility only in the absence of regulation 58 (which applies to all the employees of the Corporation) and is wholly devoid of force.

24. Another attack levelled against clause 9 was that it suffered B from a contravention of the well-known maxim *delegatus non potest delegare*. It was urged that the Central Government having been invested with the power of altering the terms and conditions of service of the employees of the Corporation, it was bound in law to exercise that power itself and that it could not delegate that power to the Corporation as it has done in clause 9. This argu- C ment is again without substance. The clause itself states in unmistakable terms that the Corporation may grant non-profit sharing bonus to its employees in respect of any particular year *subject to the previous approval of the Central Government,* and so the real bonus-granting authority remains the Central Government and not the Corporation. There is thus no delegation of any real power D to the Corporation through the promulgation of clause 9.

25. Clause 9 was also challenged on the ground that although the notification promulgating it began with the preamble "whereas the Central Government is satisfied that in the interests of the Corporation and its policy-holders it is necessary to revise the terms and conditions of service....." there is nothing to show that the E Central Government was actually so satisfied. This is a stand which cannot be allowed to be raised at this late stage in as much as it involves questions of fact which cannot be determined without the Central Government being given a full opportunity to rebut it. Had the contention been raised before the High Court, documentary F evidence could have been produced to establish that the requirement of the section had been fully met in regard to the relevant satisfaction of the Central Government. Again, in the absence of any evidence to the contrary, it is permissible to presume that official acts have been regularly performed and that the preamble to the notification, therefore, is in accord with facts.

G 26. Another contention raised on behalf of the employees was that the new clause 9 and the new regulation 58 were both hit by the provisions of articles 14 and 19 of the Constitution of India in as much as they singled out the employees of only one statutory corporation for a special rule regarding bonus in derogation of the terms hithertofore prevailing, no other Corporation in the public H sector having been so touched. The contention cannot prevail in the absence of evidence that the total emoluments of any employee to be affected by the new clause and the new regulation (regardless

of bonus) would be less than those of his counterpart in any other statutory corporation. In this connection also we may point out that the contention was not raised before the High Court and no foundation was laid for it at any stage.

27. The only other contention raised on behalf of the employee was that regulation 58 could not operate to make in-applicable the 1974 settlements to the 3rd period in as much as all settlements reached under the I.D. Act were protected by the provisions of regulation 2 which thus specifies the employees of Corporation to whom the 1960 regulations apply :

> "2. They shall apply to every wholetime salaried employee of the Corporation in India unless otherwise provided by the terms of any contract, agreement or letter of appointment."

It is impossible to accept the argument under examination in view of the language of regulation 2 which merely signifies the persons to whom the regulations are to apply. When it says that it shall apply to every wholetime employee of the Corporation "unless otherwise provided by the terms of any contract, agreement or letter of appointment", all that it means is that if a contract, agreement or letter of appointment contains a term stating that the concerned employee or employees shall not be governed by the regulations, then such employee or employees shall not be so governed. Regulation 2 is definitely not susceptible of the interpretation that if a settlement has been reached between the Corporation and its employees, the regulations shall not apply to them even though the settlement makes no provision in that behalf. It is nobody's case that the 1974 settlements contain any such provision and regulation 2, therefore, does not come into play at all.

28. In the result appeal No. 2275 of 1978 succeeds and is accepted. The impugned judgment is set aside and the petition under article 226 of the Constitution of India decided thereby is dismissed along with transfer case No. 1 of 1979. In the circumstances of the case, however, the parties are left to bear their own costs.

ORDER

In view of the opinion expressed by the majority, the appeal is dismissed with costs to the first, second and third respondents, and the Transfer Petition No. 1 of 1979 stands allowed insofar that a writ will issue to the Life Insurance Corporation directing it to give effect to the terms of the settlements of 1974 relating to bonus until superseded by a fresh settlement, an industrial award or relevant legislation. Costs in respect of the Transfer Petition will be paid to the petitioners by the second respondent.

V.D.K. *Appeal dismissed.*