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**(1996) 12 RAJ CK 0037**

**In the Rajasthan High Court**

**Case No : Civil Writ Petition No. 3716 of 1994**

Jaipur Polyspin Ltd.

APPELLANT

Vs

The State of Rajasthan

RESPONDENT

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**Date of Decision :** 03-12-1996

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Industrial Disputes Act, 1947 — Section 12

**Citation :** (1997) 2 WLC 435 : (1996) 2 WLN 317

**Hon'ble Judges :** Arun Madan, J

**Bench :** Single Bench

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## **Judgement**

Arun Madan, J.—Heard learned Counsel for the parties at length and also perused the relevant documents placed on the record as well as the impugned order dated 25.4.94 (Annexure-1) which has been assailed by the petitioner in the present writ petition.

2. The grievance of the petitioner is that pursuant to the adjudication of the dispute by the appropriate Government the management of the petitioner-Company had given the compensation in terms of the order passed by the Workmen's Claims Commissioner to respondent No. 2 workman and thereafter a dispute was raised by the said workman for his re-instatement in services of the petitioner company. The matter was referred to the Conciliation Officer by the appropriate authority and on account of the failure of the conciliation proceedings before the Conciliation Officer, the State Government declined reference of the dispute to the Labour Court for the reason that the Workman had no justification to raise the dispute for adjudication on the ground of undue laches in view of inordinate delay of seven years since his claim had already been heard and decided vide the order dated 29.1.1988. Keeping in view the facts and circumstances of the case the reference of the dispute to the Labour Court was declined by the State Government in terms of the said Order u/s 12(5) of the Industrial Disputes Act, 1947 for short "the Act, 1947". Thereafter a fresh Order was passed by the State Government on 25.4.1994 vide Annexure-1 referring

the aforesaid dispute to the Labour Courts for adjudication in accordance with the law.

3. During the course of hearing learned Counsel for the petitioner has contended at the bar that once the appropriate authority had formed the opinion not to refer to the dispute to the Labour Court and had declined the representations of the petitioner in terms of its earlier Order dated 3rd September, 1993 (Annexure-3), there was no justification for referring the matter afresh in terms of the impugned Order dated 25.04.1994 (Annexure-1) passed by the State Government.

4. During the course of hearing learned Counsel for the petitioner has further contended at the bar that the alleged dispute does not come within the scope and ambit of the Act, 1947, which should have been referred by the State Government to the Labour Court for it's own adjudication vide the impugned order as referred to above.

5. Prima facie, I am of the opinion that keeping in view the facts and circumstances of the case it will be appropriate that once the dispute in question has been considered by the State Government as a Industrial Dispute for it's adjudication by the Labour Court, the same should be finally heard and decided by the said forum after giving due opportunity of hearing to the parties concerned. More over this would require adjudication of disputed questions of facts by recording of evidence which cannot be gone into by this Court in exercise of it's writ jurisdiction under Article 226 of the Constitution of India.

6. At this stage learned Counsel for the petitioner states that the management of the petitioner-company may be permitted to raise the disputes in question before the appropriate forum viz. the Labour Court and to get the matter, finally adjudicated by the Labour Court in view of the reference having already been made by the State Government and which is pending adjudication before the said court.

7. It will be open to the petitioner to raise all the legal issues including the question regarding the maintainability of the reference before the Labour Court and the Labour Court shall pass a reasoned order after hearing the parties on all the issues, which may be raised before it including the question regarding It's maintainability.

8. The writ petition is accordingly disposed of with the above observation. There will be no order as to costs.