

(1961) 03 AHC CK 0013
In the Allahabad High Court

Lakshmi Ratan Cotton Mills Co. Ltd.

APPELLANT

Vs

Misra (O.N.) and Others

RESPONDENT

Date of Decision : 13-03-1961

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 4K

Citation : (1962) 1 LLJ 308

Hon'ble Judges : Dhavan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Dhavan, J.—This is a petition by the Lakshmi Ratan Cotton Mills Co. Ltd. Kanpur, challenging the legality of an order made by the labour Commissioner of Uttar Pradesh referring a dispute between the petitioner company and its workmen to the labour court for decision. The facts as alleged in the petitioner's affidavit are these: The company carries on the business of manufacturing and selling cotton textiles. Respondent 4, Ram Pal Singh, an employee of the company was dismissed. This action led to a dispute which was referred to the regional conciliation officer, Kanpur, on an application by the Suti Mill Mazdur Sabha, Kanpur, but that officer was not able to effect any conciliation and there was no settlement of the dispute. On 15 January 1958, the Labour Commissioner referred the dispute to the labour court, Kanpur, in these terms:

Whether the employers have wrongfully and/or unjustifiably terminated the services of their workman named Ram Pal Singh, son of Har Deo Singh, D.F. tenter, shift "A" with effect from 18 September 1956? If so, to what relief is he entitled?

2. The proceedings before the labour court have not commenced as the petitioner company has come to this Court with the contention that the reference is wholly without jurisdiction. It prays for a writ of prohibition directing the labour court to refrain from proceeding with the hearing of the dispute and a writ of

mandamus directing the labour Commissioner to withdraw the notification containing the reference.

3. Sri R.S. Pathak, who argued the case for the petitioner with his usual brevity urged one point against the legality of the reference. He pointed out that the labour Commissioner had formed an opinion that an industrial dispute existed between the petitioner company and its worker. Learned Counsel contended that u/s 4K of the, Uttar Pradesh Industrial Disputes Act as amended, Government alone can form such an opinion before any reference is made, Learned Counsel conceded that the State Government has the power to delegate any power exercisable by it under this Act to any officer or authority subordinate to it, but he argued that the power of satisfying itself that an industrial dispute exists is not capable of delegation. This argument was considered by me at considerable length in Writ Petition No. 664 of 1958--Upper Doab Sugar Mills, Shamli v. Labour Commissioner decided on 16 September 1958 and negatived. I held that the forming of an opinion is a condition precedent to the exercise of the power of reference and the condition cannot be divorced from the power itself. My opinion coincides with that of two other learned Judges of this Court in another case. It is true that our late brother James took a contrary view in another case, but with profound respect for him, I am not inclined to change my view. I am fortified in my opinion by a decision of the Privy Council in Mangoni v. Attorney-General of Northern Rhodesia AIR (1961) 446 in which it was held that the authority to delegate powers enabled that authority not only to delegate this power but also the performance of the condition necessary for the exercise of this power.

4. Sri Pathak tentatively suggested that in view of the fact that this question is now being considered by a Division Bench in a case which is actually being argued today, I might consider the desirability of postponing a decision until after the Bench has given its considered opinion. I have given thought to this suggestion, but I prefer to pronounce my decision straightway. The petitioner company can have my opinion reversed in appeal in the event of the Division Bench taking a contrary view in that case.

5. The point raised by Sri Pathak being concluded by previous authorities, this petition must fall. It is accordingly rejected with costs.