
(2013) 05 AHC CK 0326
In the Allahabad High Court
Case No : Civil Misc. W.P. No. 41748 of 2008

Mohd. Sarwar

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 24-05-2013

Acts Referred:

Constitution of India, 1950 — Article 19

Industrial Disputes Act, 1947 — Section 10, 10(4), 2(oo), 22, 25(O)

Citation : (2013) 5 ALJ 788 : (2013) 6 AWC 6169 : (2013) 3 LLJ 221 : (2013) 3 UPLBEC 1962

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Tarun Agarwala, J.—A reference was made by the State Government u/s 4-K of the U.P. Industrial Disputes Act (hereinafter referred to as "the Act") on 10.1.2012. The terms of the reference order was, whether the employers were justified in terminating the services of the workman w.e.f. 8.7.2000 ? If not, to what relief is the workman entitled to?

Before the Tribunal, the workman contended that he was appointed in a permanent capacity in the year 1969 and, since then, was working continuously without any break in service and that he was illegally terminated on 8.7.2000 without holding any inquiry and without granting any opportunity of hearing. The workman contended that the unit of the employers factory had closed down illegally without complying with the provisions of Section 6-W of the Act. It was contended that no notice or wages in lieu of notice was paid nor the provisions of Section 6-N of the Act was complied with. The workman contended that no permission was taken by the employers from the State Government for closure of its undertaking and therefore, the provisions of Sections 25-M, 25-N and 25-O of the Industrial Disputes Act (hereinafter referred to as the "I.D. Act") was violated as well as the provisions of Sections 6N, 6-P and 6-Q and 6-W of the

Act. The workman, accordingly, prayed that he is entitled to be reinstated with continuity of service and with full back wages.

2. The employers filed a written statement contending that the factory was running in operational losses for several years and it was decided to close down the factory in a phased manner. The management took a decision to close its Head Office and, on that basis, notice was duly served upon 111 workers working in the Head Office, intimating them that the Unit would close down w.e.f. 8.7.2000 and that their services would be terminated as per the provisions of Section 25-FFF of the Industrial Disputes Act. The employers contended that before the Conciliation Officer, it was specifically contended that there has been a valid closure and that it was not a case of illegal termination or retrenchment as defined u/s 2(s) of the Act, read with Section 6-N, but, was a case of closure. The employers contended that the closure was valid and that the validity of the closure could not be looked into by the Tribunal in these proceedings, since no reference with regard to the validity and legality of the closure has been referred. The employer further contended that closure compensation as per the Act was duly given and paid to the workers concerned, which was accepted by the workman. It was also brought to the knowledge of the Tribunal that the M.N.T. unit was closed down irrevocably on 14.12.2000 and the Battery unit was closed down on 3.5.2001.

3. The workman himself deposed before the Tribunal reiterating the stand which he had taken in the written statement, but, further admitted that he has received the closure compensation as well as the Provident Fund and Gratuity, but, contended that the closure of the factory was wholly illegal and in gross violation of the provisions of Section 6-W of the Act.

4. The employers' witness deposed, that the factory was running in operational losses for several years and that a conscious decision was taken to close various units and departments of the petitioners' Company in a phased manner. It was also stated that a voluntarily retirement scheme was brought into operation, which was not accepted by the workers and consequently, thereafter closure was done on various units of the petitioner's factory in a phased manner and retrenchment compensation as per law was paid to each of the workers

5. Before the Tribunal, the workman contended that the respondent factory had more than 300 workers and, therefore, it was incumbent upon the employers to seek permission from the State Government before closure of their factory or any unit of their factory, as per Section 6-W of the Act. It was contended that since no permission was taken from the State Government, the closure declared by the employers was deemed to be an illegal closure and, consequently, the workers were entitled to the benefits as per law.

6. On the other hand, the employers contended, that the closure was valid and no permission was required to be obtained from the State Government since the respondent No. 3 had closed down one unit, which had less than 300 workers.

Even otherwise, at the time when the petitioners had taken a decision to close down its unit on 8.7.2000, the provisions of seeking previous permission u/s 6-W of the Act had been struck down from the statutes being ultra vires Article 19 of the Constitution of India.

7. In rejoinder the workman contended that a SLP was pending and, consequently, it became obligatory upon the employers" to seek permission.

8. The employers further contended in rejoinder, that in any case, the reference was only with regard to the validity and legality of the order of termination of the workman and that no reference was made with regard to the validity and legality of the action of the employers in closing its unit and, therefore, the validity of such closure cannot be questioned or considered by the Tribunal since its jurisdiction flows from the referring order.

9. The Tribunal, after considering the material evidence on record held that the workman had only raised the dispute with regard to the termination of his services before the Conciliation Officer as well as before the Tribunal. The Tribunal held that it derives its power from the referring order and that the reference so made by the State Government u/s 4-K of the Act was only with regard to the termination of the services of the workman. The Tribunal further found that no reference was made with regard to the validity and legality of the closure of the petitioner"s unit and, consequently, held that the validity and legality of the closure of the petitioner"s unit could not be decided as an "incidental" matter while considering and deciding the reference order. The Tribunal, accordingly, rejected the claim of the workman. The workman, being aggrieved by the award of the Tribunal has filed the present writ petition.

10. Heard Miss. Bushra Maryam, the learned counsel for the petitioner and Sri P.K. Sinha, the learned counsel for the employers.

11. The learned counsel submitted that admittedly retrenchment compensation as specified in Section 6- N of the Act was not given to the workman, which is a necessary requirement before retrenching a workman under the U.P. Industrial Disputes Act. No notice or wages in lieu of notice or retrenchment compensation as per Section 6-N of the Act was provided and, consequently, in the light of the definition Clause 2(s) defining "retrenchment" read with Section 6-N of the Act, the order of termination was illegal for noncompliance of these provisions and consequently the workman was liable to be reinstated with continuity of service and with full back wages.

12. The contention of the petitioner in this regard is, that Section 2(s) defines "retrenchment" with clear precision, namely, "termination of the services of the 7 workman for any reason whatsoever". The learned counsel stressed that the words "for any reason whatsoever" is wide enough to encompass the termination of the services of the workman by way of closure of the establishment. The learned counsel for the petitioner submitted that even if a workman"s services was terminated on account of closure of a unit of a factory, it was necessary and

incumbent upon the employers to pay retrenchment compensation as per Section 6-N of the Act. The learned counsel further urged that there were more than 300 workers and an illegal device was created to close various units in a phased manner so as to circumvent the provisions of Section 6-W of the Act by not taking permission from the State Government. The learned counsel submitted that it was imperative and mandatory for the employers to take previous permission from the State Government for closure of its factory as specified u/s 6-W of the Act. Since no permission was taken, the closure of the factory was illegal and consequently, the workman was entitled for all the benefits as provided under the Act.

13. In the end, the learned counsel contended, that the Tribunal committed a manifest error in holding that the validity and legality of the order of closure 8 could not be decided in the reference so made by the State Government. The learned counsel contended that the question with regard to the closure of the factory was an incidental question which could be decided while judging the veracity and legality of the order of termination as per the provisions of Section 10(4) of the Industrial Disputes Act, which permits the Tribunal to decide incidental matters. In support of her submission the learned counsel has placed reliance upon various decisions, which shall be considered at the appropriate place.

14. On the other hand, the learned counsel contended that the question of deciding incidental matters cannot be considered where a reference has been made u/s 4-K of the Act and that incidental matters can be considered where a reference has been made u/s 10 of the Industrial Disputes Act, but u/s 4-K of the Act only the issue referred in the referring order and such matters related thereto can only be decided. Since the validity of the closure was not referred and "such matter" relating to closure was not incidental thereto, the Tribunal had no jurisdiction to decide such question and traverse beyond the reference order. The learned counsel further contended that no permission was required to be obtained as, at the relevant moment of time, the provisions of Section 6-W of the Act had been declared ultra-vires the Constitution. Since the provisions of Section 6-W of the Act was not existing in the statute, the question of seeking any previous permission from the State Government did not arise.

15. The learned counsel further submitted in the alternative that it was permissible for the employers to close its unit in a phased manner and that the unit so closed had only 111 workers, which was below the permissible limit and consequently, no permission was required to be obtained from the State Government u/s 6-W of the Act .

16. In order to appreciate the rival stand of the learned counsel for the parties, it would be appropriate to refer to certain provisions of the U.P. Industrial Disputes Act. Section 2(s) defines "retrenchment" as under:-

2(s) "Retrenchment" means the termination by the employer of the service of a

workman for any reason whatsoever, otherwise than as punishment inflicted by way of disciplinary action, but does not include-

- (i) voluntary retirement of the workmen; or
- (ii) retirement of the workmen on reaching the age of superannuation if the contract of employment between the employer and 10 workman concerned contains a stipulation in that behalf;

17. Section 6-N of the U.P. Industrial Disputes Act provides a procedure for retrenchment of workman, which is extracted herein under:

6-N. Conditions precedent to retrenchment of workmen.- No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,-

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice wages for the period of the notice; Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the State Government.

18. Section 6-W of the U.P. Industrial Disputes Act provides procedure for closure of an undertaking, which is also extracted hereunder:

6-W. Procedure for closing down an undertaking.-

(1) An employer who intends to close down an undertaking of an industrial establishment shall, in the prescribed manner, apply, for prior permission, at least ninety days before the date on which the intended closure is to become effective, to the State Government, stating clearly the reason for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workmen in the prescribed manner:

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(2) Where an application for permission has been made under sub-section (1), the State Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall

be communicated to the employer and the workmen.

(3) Where an application has been made under sub-section (1) and the State Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(4) An order of the State Government granting or refusing to grant permission shall, subject to the provisions of sub-section (5), be final and binding on all the parties and shall remain in force for one year from the date of such order.

(5) The State Government may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (2) or refer the matter to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(6) Where no application for permission under sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(7) Notwithstanding anything contained in the foregoing provisions of this Section, the State Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary to do so, by order, direct that the provisions of sub-section (1) shall not apply in relation to such period as may be specified in the order.

(8) Where an undertaking is permitted to be closed down under sub-section (2) or where permission for closure is deemed to be granted under sub-section (3), every workman who is employed in that undertaking immediately before the date of application for permission under this Section shall be entitled to receive compensation which shall be equivalent to fifteen day's average pay for every completed year of continuous service or any part thereof in excess of six months.

19. The definition of "retrenchment" is divided into two parts. The first part lays down that "retrenchment" means the termination of the services of a workman by the employer for any reason whatsoever otherwise than by way of punishment inflicted by way of a disciplinary action. The second part of the definition further excludes voluntarily retirement of the workman or retirement on reaching the age of superannuation.

20. The words "for any reason whatsoever" would include termination on account of closure of the establishment is no longer res integra and this issue has been

decided by a Constitutional Bench of the Supreme Court.

21. In *Pipraich Sugar Mills Ltd. v. Pipraich Sugar Mills' Mazdoor Union*, 1957 1 LLJ 235, the Supreme Court dealt with the question whether the discharge of the workman on the closure of the undertaking would constitute retrenchment or not and whether the workmen were entitled for retrenchment compensation. The Supreme Court observed:

But retrenchment connotes in its ordinary acceptation that the business itself is being continued but that a portion of the staff or the labour force is discharged as surplus age and the termination of services of all the workmen as a result of the closure of the business cannot therefore be properly described as retrenchment.

22. Based on these observations, the Constitutional Bench of the Supreme Court in *Hariprasad Shivshankar Shukla and Another v. A.D. Divelkar and Others*, AIR 1957 SC 121 : 1957-I-LLJ-243 (SC), explained further the meaning of the word "retrenchment" as defined u/s 2(oo) of the Industrial Disputes Act, which is more or less the same as defined u/s 2(s) of the Act. The Supreme Court observed that the expression "for any reason whatsoever" though wide must necessary draw within its ambit, not any act of commission and omission on the part of the employers, but the concept of termination of the surplus workers' services due to reason such as economy rationalisation in industry, installation of new labour saving machinery or devices, standardisation or improvement of plant or technique or the like.

23. The Supreme Court held that the words "for any reason whatsoever" must be read and construed as such. The Supreme Court after considering the definition of "retrenchment" as defined u/s 2(s) of the Act concluded that the entire scheme of the Act to give the definition Clause relating to "retrenchment" such a meaning as would include within the definition termination of services of all workman by the employers when the business itself ceases to exist, meaning thereby that "retrenchment" means discharge of surplus workmen in an existing or continuing business and does not include "retrenchment" of workers on a bona fide closure of business. The Supreme Court, accordingly, held:

For "the reasons given above, we hold, contrary to the view expressed by the Bombay High Court, that retrenchment as defined in Section 2(oo) and as used in Section 25-F has no wider meaning than the ordinary, accepted connotation of the word: it means the discharge of surplus labour or staff by the employer for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, and it has no application where the services of all workmen have been terminated by the employer on a real and bona fide closure of business as in the case of *Shri Dinesh Mills Ltd.* or where the services of all workmen have been terminated by the employer on the business or undertaking being taken over by another employer in circumstances like those of the Railway Company.

24. Pursuant to the decision in *Hariprasad Shivshankar Shukla and Another v. A.D. Divelkar and Others* (supra) the Legislature amended the Industrial Disputes Act by Amending Act No. 18 of 1957 and incorporated the present Sections 25-F and 25-FFF of the Industrial Disputes Act, which made provisions for notice and for payment of compensation or payment of wages in lieu of notice and compensation to be given to a workman discharged from service on a transfer or closure of an Industrial undertaking as if the workman had been retrenched. Similar provisions of Section 6-N and 6-W was also incorporated under the U.P. Industrial Disputes Act, but, the definition Clause 2(s) of the of the U.P. Industrial Disputes Act or 2(oo) of the Industrial Disputes Act was not amended. Consequently, this Court is of the opinion, that even after the amendment of the Act by the Amendment Act, 1957, the interpretation of "retrenchment" as given by the Supreme Court in the Constitution Bench decision in *Hariprasad Shivshankar Shukla and Another v. A.D. Divelkar and Others* (supra) remains the same, which means that retrenchment necessarily postulate termination of the employees service in an existing running industry and that retrenchment does not postulate retrenchment where there has been a valid closure of an undertaking or an establishment.

25. This view of mine is fortified by a decision of the Supreme Court in *HP. H.P. Mineral and Industrial Development Corporation Employees Union v. State of H.P. and Ors.*, 1996 (7) SCC 139 , wherein the Supreme Court observed that in view of the fact that Section 25(O) of the Industrial Disputes Act (relating to closure) had been struck down and the amended provision had not come into existence and was not in operation on the day of the closure of the industry, the workers could not invoke the protection of Section 25-N of the Industrial Disputes Act (which relates to retrenchment compensation) and that the only protection that was available to them was that contained in Section 25-FFA and 25-FFF, which relates to payment of closure compensation. The Supreme Court observed:

We are unable to accept this contention. It is no doubt true that in Section 2(oo) the expression "retrenchment" is defined to mean the termination by the employer of the service of a workman for any reason whatsoever otherwise than as a punishment inflicted by way of disciplinary action and categories referred to in Clauses (a) to (c) have been expressly excluded from the ambit of the said definition. But as far back as in 1957 a Constitution Bench of this Court in *Hariprasad Shivshankar Shukla v. A.D. Divikar* had laid down that "retrenchment" u/s 2(oo) of the Act would not cover termination of services of all workmen as a result of the closure of the business. The said decision was considered by the Constitution Bench of this Court in *Punjab Land Development and Reclamation Corpn. Ltd. v. Presiding Officer, Labour Court*, wherein it has been observed SCR (pp. 140-42, 143 and 152-53 : SCC pp. 709, 710 and 718-19, paras 52, 53 and 76).

Mr. V.A. Bobde submits, and we think rightly, that the sole reason for the decision in *Hariprasad* was that the Act postulated the existence and continuance of an

industry and where the industry i.e. the undertaking, itself was closed down or transferred, the very substratum disappeared and the Act could not regulate industrial employment in the absence of an industry. The true position in that case was that Section 2(oo) and 25F could not be invoked since the undertaking itself ceased to exist.

The Judgments in *Sundara Money* (supra) and the subsequent decisions in the line could not be held to be per incuriam inasmuch as in *Hindustan Steel and Santhosh Gupta's* cases, the Division Benches of this Court had referred to *Hariprasad Shivshankar Shukla and Another v. A.D. Divelkar and Others* (supra) and rightly held that its ratio did not extend beyond a case of termination on the ground of closure and as such it would not be correct to say that the subsequent decisions ignored a binding precedent. and further held:

From the aforementioned observations it is evident that the definition of "retrenchment" as defined in Section 2(oo) of the Act has to be read in the context of Section 25-FF and 25-FFF of the Act and if thus read "retrenchment" u/s 2(oo) does not cover termination of service as a result of closure or transfer of an undertaking though such termination has been assimilated to retrenchment for certain purposes, namely, the compensation payable to the workmen whose services are terminated as a result of such closure. In that view of the matter Section 25-N which deals with retrenchment cannot apply to the present case where termination of the services of the workmen was brought about as a result of the closure of the undertaking.

26. In the light of the aforesaid, it is clear that the words "for any reason whatsoever" in Section 2(s) of the Act does not include closure of an establishment and, consequently, termination of the services of the workman on account of closure of an establishment does not amount to retrenchment.

27. Admittedly the procedure for closure of an undertaking as per Section 6-W of the U.P. Industrial Disputes Act was struck down by the High Court as well as by the Supreme Court and before the amended provision was introduced, the employers had taken a decision to close its establishment in a phased manner. Since the amended provision was not in existence on the day of the closure of the industry, the question of seeking permission from the State Government, as per the amended provision 6-W, did not arise and could not arise. Action taken during the period when there was no provision for seeking permission cannot be said to be an action, which is mala fide or not in good faith. The workman could only invoke the protection that was available to them as contained in Section 25-FFA and Section 25-FFF of the Industrial Disputes Act. As per the evidence given by the workman himself retrenchment compensation as per Section 25-FFF of the Industrial Disputes Act was duly paid to him. Consequently, substantial compliance was made by the employers for providing retrenchment compensation upon the closure of the unit of the employers' establishment.

28. The reference order is clear and explicit, namely, whether the employer's

were justified in terminating the services of the workman. The validity and legality of the order of termination was referred to the Labour Court. It was urged that the validity and legality of the closure of the establishment can also be considered and looked into by the Tribunal while deciding the validity and legality of the order of termination under the referring order. According to the petitioner, this is an incidental question, which can be considered and that the powers of the Tribunal is wide enough to decide such question while moulding the reliefs.

29. In this regard before the proceeding further, the provisions of Section 4-K of the U.P. Industrial Disputes Act be looked into and compared with the provisions of Section 10 and Section 10(4) of the Industrial Disputes Act. For facility, Section 4-K of the U.P. Industrial Disputes Act is extracted hereunder:

4-K. Reference of disputes to Labour Court or Tribunal.--Where the State Government is of opinion that any industrial dispute exists or is apprehended, it may at any time by order in writing refer the dispute or any matter appearing to be connected with, or relevant to, the dispute to a Labour Court, if the matter of industrial dispute is one of those contained in the First Schedule, or to a Tribunal if the matter of dispute is one contained in the First Schedule or the Second Schedule for adjudication.

Provided that where the dispute relates to any matter specified in the Second Schedule and is not likely to affect more than one hundred workmen, the State Government may, if it so thinks fit, make the reference to a Labour Court.

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30. A perusal of the aforesaid indicates that the State Government may by an order in writing refer the dispute or any matters appearing to be connected with or relevant to the dispute. The language of Section 4- K of the Act is very clear, namely, that the dispute has to be referred in writing so that parties are aware of the terms of the referring order and the Tribunal is aware of its jurisdiction to decide the matter. It is settled law that the Tribunal gets the power from the reference order and that it cannot travel beyond the referring order. Therefore, the dispute is required to be referred or any matter which is connected or relevant to the main dispute is also required to be referred in writing.

31. On the other hand, Section 10 and Section 10(4) of the Industrial Disputes Act read as under:-

10. Reference of disputes to Boards, Courts or Tribunals.- (1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time, by order in writing,--

(a) refer the dispute to a Board for promoting a settlement thereof; or 22

(b) refer any matter appearing to be connected with or relevant to the dispute to

a Court for inquiry; or

(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or

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

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

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

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

10(4) Where in an order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this Section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, the Labour Court or the Tribunal or the National Tribunal, as the case may be shall confine its adjudication to those points and matters incidental thereto.

32. Section 10 of the Industrial Disputes Act indicates that the State Government can refer a dispute by an order in writing for adjudication to the Labour Court or Tribunal. Section 10(4) of the Industrial Disputes Act further provides that where the referring order has specified the points of dispute for adjudication, the Labour Court or the Tribunal shall confine its adjudication to those points and matters incidental thereto. The words "matters incidental thereto" is not specified u/s 4-K of the U.P. Industrial Disputes Act.

33. In *Pottery Mazdoor Panchayat Vs. Perfect Pottery Co. Ltd. and Another*, : 1983-I-LLJ-232 (SC), the Supreme Court while considering the provision of Section 10(4) of the Industrial Disputes Act held that the jurisdiction of the Tribunal in Industrial Dispute is limited to the point specifically referred for its adjudication and to matters incidental thereto and that the Tribunal could not go beyond the terms of the reference order. The Supreme Court went on to hold, that in the instant case, the terms of the reference showed that the points in dispute between the parties was not the fact of closure of its business by the

employers and that the reference was limited to the narrow question as to whether the closure was proper and justified. The Tribunal by the very terms of the reference order had no jurisdiction to go behind the fact of closure and inquire as to whether the business was in fact closed down by the Management.

34. In *Firestone Tyre and Rubber Company of India (P) Ltd. Vs. Workmen Employed, represented by Firestone Tyre Employees' Union*, the Supreme Court again held that the Tribunal could not travel outside the terms of the referring order.

35. In the light of the aforesaid, the Court is of the opinion, that the Tribunal was justified in holding that since the validity and legality of the closure of the establishment was not specified as a point of dispute to be adjudicated in the referring order, the Tribunal was justified in not adjudicating the same. In the light of the aforesaid, the Court is of the opinion that the award of the Labour Court does not suffer from any error of law.

The writ petition fails and is dismissed.