

(2000) 09 SC CK 0095
In the Supreme Court Of India
Case No : Civil 681 and 682 of 1997

Moolchand Kharati Ram Hospital K. Union	APPELLANT
Vs	
Labour Commissioner and Others	RESPONDENT

Date of Decision : 19-09-2000

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Citation : (2000) 87 FLR 853 : (2000) 2 JT 204 Supp : (2000) 2 LLJ 1411 : (2002) 10 SCC 708

Hon'ble Judges : S. Rajendra Babu, J; D. P. Mohapatra, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

S. Rajendra Babu, J.—A reference was made to the Industrial Tribunal u/s 10 of the Industrial Disputes Act and the following question was referred:

Whether the workmen shown in Annexure 'A' are entitled to wages for the lockout period w.e.f. February 11, 1995 and, if so, what directions are necessary in this respect?

2. The Management of the Hospital, which is the third respondent in these appeals, filed a writ petition for quashing of the reference on the ground that the real dispute between the parties as to whether a lockout was presumed and the consequential question was referred but not, the basic question and, therefore, the reference is bad in law. The stand of the Management is that there is no lockout at all. Learned Single Judge before whom the matter came up for consideration took the view that the dispute actually referred did not reflect the real dispute between the parties the Management having disputed the very existence of lockout and hence issued the writ quashing the reference.

3. The workmen filed an appeal to the Division Bench stating that the relevant material placed, before the Government having been considered the real dispute between the parties had been referred to the Industrial Tribunal and that the

order in question being administrative in nature could not be interfered with at all. The High Court examined the matter and took the view that the learned Single Judge is justified in quashing the order of reference.

4. In these appeals the contention put forth before us is that the order made by the Government, making reference to the Tribunal, is administrative in character and therefore, the High Court should not have interfered with the same. Even if, we proceed on the basis that the nature of the order, making a reference, is administrative in character, it is certainly open to the High Court to examine whether relevant considerations in making the reference had been taken note of or not. In the view of the High Court relevant considerations have not been taken note of by the Government and that finding cannot be seriously disputed.

5. In the circumstances, we think the view of the High Court is justified. However, that would not solve the problem of the parties. The proper course to be adopted is to direct the first respondent to take appropriate steps to make a reference to the concerned Tribunal after considering all the relevant material on record in the case. Let such steps be taken within three months from today. The appeals stand disposed of accordingly.