

(1961) 07 KAR CK 0001

In the Karnataka High Court

Case No : Writ Petition No's. 974, 975 and 976 and 1960

Sirnivasa Silk Mills and Others

APPELLANT

Vs

State of Mysore and Others

RESPONDENT

Date of Decision : 11-07-1961

Acts Referred:

Industrial Disputes Act, 1947 — Section 10 (1) (d), 7 A, 8

Citation : AIR 1962 Kar 117 : (1962) 4 FLR 144 : (1962) ILR (Kar) 22

Hon'ble Judges : B.M. Kalgate, J;A.R. Somanath Iyer, J

Bench : Division Bench

Advocate : E.S. Venkataramiah, for the Appellant; B. Venkataswamy, Govt. Pleader and A. Nagesha Rao, for the Respondent

Judgement

Somnath Iyer, J.

(1) These three cases relate to a reference made u/s 10(1)(d) of the Industrial Disputes Act, by the Government of the State of Mysore, in respect of the Industrial disputes stated therein.

(2) These references which were made originally to another Tribunal stood transferred at one stage to a Tribunal presided over by one Mr. D.H. Chandrasekhariah, and which was constituted under the provisions of S. 7-A of the Act, on July 5, 1957. The notification by which that Tribunal was constituted reads:

"In exercises of the powers conferred by S, 7-A of the Industrial Disputes Act, 1947, (Central Act XIV of 1947) the Government of Mysore here by constitutes an Industrial Tribunal at Bangalore for the adjudication of industrial disputes in accordance with the provisions of the said Act and appoints Shri. D.H. Chandrasekhariah, B.A. LL.B., as the presiding officer of the said Tribunal."

(3) It will be seen from this notification that the Government of Mysore which is appointed this Tribunal did not specify the period during which that Tribunal had to function. What is constituted was therefore a permanent Tribunal.

(4) By another notification which was issued on July 5/6, 1957, Mr. Chandrasekhariah was appointed as the presiding Officer of the said Tribunal for the period of two years. That notifications reads:

"Read

Notifications No. LLH 34 ILD 57 dated 5-7-1957 constituting as Industrial Tribunal at Bangalore u/s (2) of Section 7 of the Industrial Disputes (Amendment and Miscellaneous Provision) Act 1956, for adjudication of the Industrial Disputes by appointing Shri D.H. Chandrasekhariah, B.A.LL.B., Advocate as Presiding Officer for the said Tribunal.

Order No. LLH 34 ILD 57: Bangalore dated the 5/-6-7-1957.

Shri D.H. Chandrasekhariah is appointed on a salary of Rs. 1500/- p.m. from the date of his assuming charge of the Tribunal. The appointment is made for a period of two years."

(5) Mr. Chandrasekhariah continued to preside over this Tribunal during the period for which he was appointed and, when that period was about to expire, a further notification was published by the Government of the State of Mysore which reads:

"In exercises of the powers conferred by the Section 7-A of the Industrial Disputes Act, 1947 (Central Act XVI of 1947) and all of other powers enabling it in this behalf, the Government of Mysore hereby extends the terms of the Industrial Tribunal at Bangalore constituted in Government Notification No. LLH 34 ILD 57 dated 5th July, 1957 for a period of six months from 5th July, 1959 and appoints Sri D.H. Chandrasekharaiya, B.A.LL.B., as the Presiding Officer of the said Tribunal."

(6) This notification was followed by yet another notification which was made on January 4, 1960, and that notifications reads:

"In exercises of the powers conferred by S. 7-A of the Industrial Disputes Act, 1947, and all other powers enabling it in this behalf, the Government of Mysore hereby further extends the term of the Industrial Tribunal at Bangalore, constituted in Government Notification No. LLH 34 ILD 57 dated 5th July, 1957 and extended till 5-1-1960 in Government Notification No. LLH. 68 IIE 59 dated 2-7-1959 for a period of six months from 5th January 1960, and appoints Sri D.H. Chandrasekhariah, B.A., LL.B. as the Presiding Officer of the said Tribunal."

(7) Just about the time when this period of six months referred to in this notification of January 4, 1960, was about to expire, one more notification was promulgated by the State on July 5, 1960, and that notification reads:

"In exercise of the powers conferred by S. 7-A of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), and all other powers enabling it in this behalf, the Government of Mysore here by further extends the term of the Industrial Tribunal at Bangalore, constituted in Government Notification No. LLH 34 and ILD

57 dated the 5th July, 1957 and extended till 5th July, 1957 and extended the terms of the Industrial Tribunal at Bangalore, constituted in Government Notification No. LLH 34 ILD 57 dated the 4th January, 1960, for a period of one year from 5th July 1960, and appoint Shri S. S. Malimath, B.A. LL.B., as the Presiding Officer of the said Tribunal."

(8) A clarification of this notification was made on July 13 1960, by a supplemental notification which reads:

"In exercises of powers conferred by Secs. 7-A and 8 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), all other powers enabling it in this behalf, the Government of Mysore hereby directs that the following amendments shall be made in the Notification No. LLH 112 LLE 60 dated the 5th July 1961, namely:

In the said Notification:

(1) After the word, figure and letter "Section 7-A" the words and figure and "Section 8" shall be inserted;

(2) After the words "appoints Shri S.S. Malinath, B.A.LL.B., as the Presiding Officer of the said Tribunal", the words "in the vacancy occurring on account of the expiry of the term of office of Shri D.H. Chandrasekhariah, B.A.LL.B.," shall be inserted."

(9) The reference to which these three cases relate stood transferred to the Tribunal over which Mr. D.H. Chandrasekhariah Presided, by an order made by the Government u/s 33B of the Industrial Disputes Act, on May 30, 1960.

(10) After Mr. Chandrasekhariah ceased to preside over the Tribunal, after the expiry of the period of six months specified in the fourth notification made by the Government, on January 4, 1960, these references which so stood transferred up by Mr. Chandrasekhariah's Tribunal were taken up by Mr. Malinath, who was appointed to preside over the Tribunal by the notification issued on July 5, 1960.

(11) Before Mr. Malimath, it was urged on behalf of the petitioners who are the employers, that the references which were pending before Mr. Chandrasekharaiah could not be continued by Mr. Malinath since the effect of the notification promulgated by the Government on July 5, 1960, was to constitute a new Tribunal presided over by Mr. Malimath to whom, under the law, new references were necessary u/s 10(1)(d) of the Act.

(12) Mr. Malimath, who presided over the Tribunal, did not accede to that Contention, and, in these writ petitions it is urged that we should quash the proceedings now pending before Mr. Malimath for the reasons that was beyond the competence of Mr. Malinath to continue the proceedings relating to the old references.

(13) It is also urged before us that, even otherwise, Mr. Malimath was not a person who was qualified to be appointed as the Presiding Officer of the Tribunal, since he was at no time a Judge of a High Court, as required by S. 7A(3)(a) of

the Act. The argument presented in this context is that since, Mr. Malimath was only an additional Judge of this Court, he was not "a Judge of a High Court" with in the meaning of that expression occurring in Section 7A(3)(a) of the Act, and therefore, not qualified to be appointed to preside over the Tribunal.

(14) Although this second argument is not raised in any of these three cases, since that contention has been urged in the other companion Writ Petition the advocates appearing in which were permitted to intervene during the argument in these cases, we have heard arguments on that question, as that question is again likely to arise in the other cases.

(15) These are the two questions which have to be decided by us in these cases.

(16) I shall now proceed to consider the argument addressed that when Mr. Malimath was appointed to preside over the Tribunal by the notification issued on July 5, 1960, it was beyond his competence to proceed with the references which Mr. Chandrasekhariah was trying and that it was necessary for the Government if it chose to do so, to make a further reference to Mr. Malimath in respect of the same subject matter, again u/s 10(1)(d) of the Act.

(17) The foundation for this argument is the contention that when Mr. Malimath was appointed to preside over the Tribunal on July 5, 1960, what the Government did was to constitute again a fresh Tribunal u/s 8 of the Act. If there was the Constitution of another Tribunal in that way, it is urged that since Section 8 of the Act was clearly inapplicable to a case of that description, the only method by which the industrial disputes which formed subject-matter of the references before Mr. Chandrasekhariah could be decided was by another reference u/s 10(1)(d) of the Act to the Tribunal presided over by Mr. Malimath.

(18) On behalf of the employees, Mr. Nagesha Rao, their learned advocate, has controverted the correctness of the proposition that by the notification issued by the Government on July 5, 1960, a new Tribunal was constituted. The stress of his argument is that what the Government did when it issued that notification was to appoint a person to preside over the Tribunal, the presiding officer of which had ceased to hold office as such. Mr. Chandrasekhariah, according to Mr. Nagesha Rao, having been appointed only for a period of six months from January 4, 1960, by the fourth notification which was issued by the Government, vacated the office of the Presiding Officer of the Tribunal six months after he assumed charge and, in that vacancy, according to Mr. Nagesha Rao, Mr. Malimath was appointed.

(19) If we can come to the conclusion that the arguments addressed on behalf of the employees that a new Tribunal was constituted u/s 7-A of the Act by the notification issued by the Government on July 5, 1960, over which Mr. Malimath was appointed to preside, there would hardly be any difficulty in reaching the further conclusion that Mr. Malimath could not try the references which had become part-heard before Mr. Chandrasekhariah.

(20) It is now well settled law and that was that was decided by their Lordships of the Supreme Court in *Minerva Mills Ltd. Vs. Their Workers*, , that if a Tribunal ceased to function by reason of the expiry of the period for which it was constituted, any references before it which had not ended in an enforceable, award would have to be made again to another Tribunal by the Government u/s 10(1)(d) of the Act, and that no new Tribunal would have the competence to proceed with that reference from the stage at which it had been left by the predecessor Tribunal.

(21) If, at the same time, we find it possible to hold that no new Tribunal was constituted on July 5, 1960, and that what was done was merely to appoint Mr. Malimath to preside over an existing Tribunal, it would be equally clear that Mr. Malimath who was appointed to such Tribunal would have the competence to proceed with the reference from the stage at which it had been left unfinished by Mr. Chandrasekhariah. That position is not controverted before said and indeed that is exactly what section 8 of the Act provides.

(22) The short question, therefore, which requires to be decided is whether Mr. Malimath was appointed to preside over any why constituted Tribunal different from the Tribunal over which Mr. Chandrasekhariah presided, or whether Mr. Malimath was appointed by the notification issued on July 5, 1960, to preside over a Tribunal which had not become functus office and which was the Tribunal the one over which Mr. Chandrasekhariah presided.

(23) Now, it would be important to notice that when the Industrial Tribunal was for the first time constituted under the provisions section 7-A of the amended Act, which permitted the Constitution of single-member Tribunals the period during which the Industrial Tribunal had to function was not specified. It was a Tribunal constituted for a indefinite period of time, and what is of even greater importance is that that notification which was issued on July 5, 1957, was followed up by another notification soon there-after wards by which Mr. Chandrasekhariah was appointed to preside over that Tribunal and what was fixed was only his tenure of office which was limited to a period of two years from the date on which he took charge. Even though this was the position, very surpassingly, when the period of Mr. Chandrasekhariah tenure of office was about to expire, the State Government issued a notification on July 4, 1959, which has already been extracted, and in this notification, instead of merely extending the period of office of Mr. Chandrasekhariah, what the State Government did was to the State that it had extended "the terms of the Industrial Tribunal" "for a period of six months from 5th July, 1959."

(24) It is not dispute before us, and that is also what was been pointed out by their Lordships of the Supreme Court in *Minerva Mills Ltd. Vs. Their Workers*, , that a State Government constituting a Tribunal u/s 7-A of the Act has also the power to define and limit the period during which that Tribunal can function.

(25) Although it had to be admitted on behalf of the petitioners in this case has

when the Tribunal was constituted for the first time on July 5, 1957, the term of that Tribunal had not been so defined or limited, what is urged is that when the third notification was issued on July 4, 1959, the State Government virtually amended its first notification and fixed a period of six months from the date of that notification as the only period during which the Tribunal had to continue to function. It has been pressed before us that after the expiry of that period of six months, the Tribunal became functus office and ceased to function making it necessary for the State Government to replace it by another Tribunal newly constituted under the Act.

(26) That was, according to the petitioners, what was done by the State Government on January 4, 1960, by which time the term of the old Tribunal expired and according to the petitioners, a new Tribunal was constituted on January 4, 1960, presided over by Mr. Chandrasekhariah. This Tribunal again, according to the argument, ceased to function after the expiry of the period for which it was constituted, making it necessary for the State Government to appoint yet another Tribunal presided over by Mr. Malimath which, it is urged, was done by the notification issued on July 5, 1960.

(27) The argument before us is two-fold.

(28) The first is that by the second notification which was issued on July 4, 1959, the indefinite period of the Tribunal constituted on July 5, 1957, was altered to a period ending after the expiry of six months from the date of that notification.

(29) The second is that even if it could be held that no new Tribunal was constituted on January 4, 1960, and that notification has to be understood as merely extending has period for which the previous Tribunal had been constituted, which ended after the expiry of two-and a half years after it was constituted on July 5, 1957, we should hold that since the Government had no power to extend the period of a Tribunal which was constituted for an indefinite period, there was no Tribunal in existence after the expiry of the period for which it was constituted and that the references which we made to the old Tribunal could not be heard or disposed of any one thereafter.

(30) The same is the argument which is addressed even with respect to the Tribunal which Mr. Malimath was appointed the presided Officer.

(31) The question as to whether the Government has or has not the power to extend the period of the Tribunal u/s 7-A of the Act would not arise for consideration if we reach the conclusion that what the Government in substance did when it promulgated its notification on July 4, 1959, was not to fix a term for the Tribunal which had been constituted on July 5, 1959, and which had been constituted for an indefinite period, but merely to extend the tenure of office of its Presiding Officer.

(32) If that was what the Government did, the argument addressed before us that what Mr. Malimath, is doing now is to dispose of a reference pending before

some other Tribunal by presiding over a Tribunal newly constituted on July 5, 1960, would not be available to the petitioners.

(33) It is extremely unfortunate that when the notification was prepared and issued by the State Government on July 4, 1959, what it purported to do was to extend the term of the Tribunal which was quite an unnecessary thing for the State Government to do. The concept of the extension of a period can arise only if the period can arise only if the period to be extended has been fixed and there fore must expire. But, if no period is defined or fixed, there is , it is clear, no occasion or necessity for any such extension.

(34) If, as pointed out by me, the Tribunal constituted on July 5, 1957, was constituted for an indefinite period and there was a permanent Tribunal, it is surprising that the State Government should have thought that the extension of the period for which it was constituted was necessary and should have stated in the notification issued on July 4, 1959, that the Tribunal's term had been extended. What, in my opinion, the Government really did was to continue Mr. Chandrasekhariah in the post of the presiding Officer of the Tribunal for another period of six months, and that is how we should, I think, read the notification of July 4, 1959.

(35) A similar construction, in my opinion, is what has to be placed on the notification issued on January 4, 1960, and although by a curious mistake what the Government did was to State in the notification that the term of the Tribunal was extended, what was necessary for the Government to do was to merely extend the tenure of office of the Presiding Officer of the Tribunal, since the term of the Tribunal which was a permanent Tribunal, required no extension and had not come to an end on January 4, 1960. What had expired was only the period of office of Mr. Chandrasekhariah and that was all that was required to be extended and that, is what really the Government did, in my opinion.

(36) If, therefore, on a true construction of the notifications issued on July 4, 1959, and on January 4, 1960, what was done by the State Government was not to extend the term of the Tribunal, which was quite superfluous it to do, but to continue Mr. Chandrasekhariah as the Presiding Officer of the Tribunal, for longer term than those for which he was appointed, it follows that the life of the Tribunal never came to an end at any relevant point of time and that the Tribunal was a continuing Tribunal.

(37) If that was the position on July 5, 1960, and the Tribunal for which Mr. Malimath was appointed as the Presiding Officer was the same Tribunal which was constituted on July 5, 1957, and what was done by the Government on July 5, 1960, was to appoint Mr. Malimath as the Presiding Officer of that Tribunal, it is clear that the Tribunal to preside over which Mr. Malimath was appointed, was not a newly constituted Tribunal but was one which was constituted on July 5, 1957, and the Presiding Officer of which were either continued or changed.

(38) It is strenuously urged by Mr. Narasimha Murthy that we should not attach

to the notification issued on July 4, 1959, January 4, 1960 , a meaning which its plain language does not justify. He has pointed out to us that in unmistakable language what the Government has stated is to extend "the term of the Industrial Tribunal" and not to extend the term of office of its Presiding Officer of an existing Tribunal.

(39) It is not possible to agree with Mr. Narasimhamurthy. But, it does not appear to me that we would be justified in planning any such construction on these notifications, and my view receives considerable support from a later notification issued by the State Government on July 13, 1960, paragraph 2 of which reads:--

* * * * *

(2) After the words "appoints Shri S. S. Malimath, B.A., LL.B., as the Presiding Officer of the said Tribunal, the words "in the vacancy occurring on account of the expiry of the term of office of Shri D.H. Chandrasekhariah, B.A. LL.B.," shall be inserted."

(40) If this was how the Government wanted its notification of July 5, 1960, to be understood it does not appear to me that the intention of the Government when it issued its notification on July 5, 1960, was to do anything other than what it avowedly intend to do as reflected in the latter notification of July 13, 1960.

(41) In the view that I take, since Mr. Malimath was appointed merely to preside over an existing Tribunal, and since no new Tribunal was constituted u/s 7-A of the Act, when Mr. Malimath was appointed by the notification issued on July 5, 1960, he was clearly competent to proceed with the references which were pending before Mr. Chandrasekhariah, no new references for that purpose being necessary u/s 10(1)(d) of the Act.

(42) I do not also find it easy to accept the argument addressed that if the Government constituted a Tribunal for a definite period, it had no power to extend that period. It seem to me that if section 7-A confers powers on the State Government to constitute for a definite period, it would be clearly within the competence of the State Government to extend the period of that Tribunal provided that period is extended before the expiry of the period for which it was constituted.

(43) If it is as pointed out by their Lordships of the Supreme Court in AIR 1959 SC 505 permissible for the State Government, when constituting a Tribunal u/s 7-A to fix the period during which the Tribunal should function, and if that power can be exercised notwithstanding there being no provision in section 7-A authorising the State Government to do so, I find it difficult to understand why the State Government should not have the power to extend the period of the Tribunal provided that power is exercised before the period for which the Tribunal was constituted expires.

(44) To take any other view might lead to strange consequences. The arguments that when a Tribunal is constituted for a fixed period and the Tribunal hearing a reference made to it has proceed to try the reference and has done substantial progress in such trial and what remains to be done by it very little, the State Government has no power to extend the period of that Tribunal to enable it to complete its work which had almost become completed, is, to my mind, so unreasonable as not to merit acceptance.

(45) The power to extend the period of the Tribunal through fixed when constituted is what is plainly implicit to my mind in section 21 of the General Clauses Act which reads:--

" 21. Where, by any Central Act or Regulation, a Power to make, to power to issue notifications, include power to orders, rules, or bye laws is con-add to, amend, ferred, then that power includes vary or rescind, a power, exercisable in the like orders, rules or manner and subject to the like by laws. sanction and conditions (if any), bye laws. to add to amend, vary or rescind any (notifications), orders, rules or bye-laws so issued."

(46) Now, the appointment of the Tribunal which was constituted on July 5, 1957, was made by a notification which is made imperative by the provisions of section 7-A of the Act. Likewise, the notification made on July 4, 1959, was also made under the provisions of the same section. Even if we can understand that notification as limiting the period of the Tribunal to a period of six months from the date of that notification, what section 21 of the General Clauses Act permits is the amendment of that notification. If an amendment of that notification is so permitted, the amendment of that part of the notification which prescribes the term of the Tribunal or the period during which it has to function is equally permissible and if the term so prescribed by the notification is extended, what the State Government does is to do no more than to amend the notification which it has made u/s 7-A of the Act, which, it appears to me, cannot be said to be outside its competence.

(47) I am not impressed by the argument that any contrary view was taken by their Lordships of the Supreme Court, in *Minerva Mills Ltd. Vs. Their Workers*, , all that was decided was that if the term of the Tribunal came to an end and therefore, the Tribunal ceased to exist, it was with in the competence of the State Government to make another reference under the Act to a new Tribunal constituted by it. There was no discussion in that case as to what would be the position if, before the expiry of the period of that Tribunal, the State Government extended its term. The question whether such extension would be within the power of the State Government was not considered in that case.

(48) In *The State of Bihar Vs. D.N. Ganguly and Others*, , the only question which was considered was whether the Government had the power after having made a reference u/s 10(1) of the Act to cancel or revoke it. It was decided that it could not.

(49) Mr. Narasimha Murthy, however, relied on a passage in the judgment in that case which reads:--

"Strictly speaking there was no occasion to withdraw any dispute from the first Tribunal; the first Tribunal had ceased to exist; and so there was no Tribunal which could deal with the remaining disputes already referred u/s 10(1)."

This passage occurs on page 1024 of the judgment and has reference to the facts of the earlier decision in *Minerva Mills Ltd. Vs. Their Workers*, . But, this passage can hardly be of any assistance to Mr. Narasimha Murthy since, as I have already pointed out, the distinguishing feature of the case in *Minerva Mills Ltd. Vs. Their Workers*, was that whereas in the case before us the term of the Tribunal stood extended, no such extension had been made by the State Government in that case.

(50) The next case to which our attention was drawn is *Strawboard Manufacturing Co. Ltd. Vs. Gutta Mill Workers' Union*, .

(51) What was held in that case was that if the State Government fixed the time within which an award should be made under the provisions of sections 3,4, and 6 of the U.P. Industrial Disputes Act, it had no power to extend the time so fixed for making the award ex post facto, that is, after the time limit originally fixed.

(52) What the State Government did in that case was to refer certain disputes to an adjudicator under the provisions of the U.P. Industrial Disputes Act and to specify the time within which he had to make the award. It was obligatory on the part of the State Government under the provisions of that Act, to so specify the time within which award had to be made. Having done that, the State Government extended the period within which the award had to be made, and that extension made by it was a retrospective extension, after the expiry of the period originally fixed.

On the page 97 of the report, while dealing with the validity of his extension, this is what their Lordships observed:--

"Under section 14 of the U.P. General Clauses Act, the State Government may exercise the power conferred on it by sections 3,4, and 6, that is to say, it can from time to time make orders referring disputes to an adjudicator and, whenever, such an order or reference is made, to specify the time within which the award is to be made. This power to specify the time does not and indeed cannot include a power to extend the time already specified in an earlier order. The legislative practice, as evidenced by the provisions of the different statutes referred to above, is to expressly confer the power of extension of time, if and when the Legislature thinks fit to do so. There is no question of any inherent power of the Court and much less of the Executive Government in this behalf, Section 14 of the U.P. General Clauses Act, does not in terms, or by necessary implication, give any such power of extension of time to the State Government and, therefore, the respondents can derive no support from that section."

The Legislative practice to which their Lordships alluded was what emerged from the various enactments to which reference was made in the earlier paragraph which included the Indian Arbitration Act of 1899, and section 12 thereof which concerned power on the Court to extend the time within which an arbitrator could make his award.

(53) It was urged and very tenaciously urged that if the U.P. State Government which fixed the time within which an award had to be made under the U.P. Industrial Disputes Act award could be made, it was equally incompetent for the Mysore State Government which constituted the Tribunal for a definite term to extend its term even before the expiry of the term so fixed.

(54) The analogue, in my opinion, is too imperfect and misleading to merit acceptance. The power in the exercise of which the U.P. State Government fixed the period with in which the award had to be made in *Strawboard Manufacturing Co. Ltd. Vs. Gutta Mill Workers' Union*, , was the power which was concerned on it by the U.P. Industrial Disputes Act, whereas the power in the exercise of which the State Government constituted the Tribunal in this case was by a notification to promulgate which power had been bestowed on it by section 7-A of the Act.

(55) In the former case, it is obvious that the power conferred on the State Government stood exhausted the moment is specified the time within which the award had to be made and could no longer be invoked after that power, had been once exercised. But, it is impossible to suggest that if a Tribunal is constituted u/s 7-A of the Central Industrial Disputes Act, and in the course of the exercise of that power, a Tribunal is constituted for a definite period, there is anything in section 7-A of that Act which forbids the extension of the term of the Industrial Tribunal by the State Government, if it considers it appropriate and necessary to do so. The content of the power conferred on the U.P. State Government by the U.P. Industrial Disputes Act is entirely at variance with and different from the conferred on the State Government by section 7-A of the Central Industrial Disputes Act.

(56) I can, therefore, find nothing in *Strawboard Manufacturing Co. Ltd. Vs. Gutta Mill Workers' Union*, , justifying the conclusion that the period of a Tribunal constituted u/s 7-A of the Industrial Disputes Act is not capable of enlargement or extension by a subsequent notification made for that purpose, even if such extension or enlargement is made before the expiry of the term originally fixed.

(57) On the question whether an ex post facto extension is or is not permissible, I do not on this occasion propose any opinion.

(58) It has, however been contended that what the Government has done in this case was to extend ex post facto the term of the Tribunal which was constituted on July 5, 1957. Our attention is drawn to the notification of July 4, 1959, in which it is stated that the term of the Tribunal was extended "for a period of six months from 5th July, 1960." The argument is that this term expired at midnight on January 4, 1960, and that the Government releasing the necessity for

extending the term of this Tribunal before it expired, rightly promulgated the notification on January 4, 1960." Now, this period of six months which is the relevant period, according to the petitioners, expired at midnight on July 4, 1960, and so, it is argued that the notification issued on July 5, 1960, further extending the term of the Tribunal was issued too late since it was issued only on July 5, 1960, after the expiry of the term of the Tribunal.

(59) The argument that the period for which the term of the Tribunal was extended by the notification made on January 4, 1960, expired at midnight on July 4, 1960, does not carry conviction to my mind.

(60) Now, what was done by the notification of January 4, 1960, was to extend the term of the Tribunal "for a period of six months from 5th January, 1960". Mr. Narasmiha Murthy contended that this period of six months includes January 5, 1960, and that if that day is included within that period of six months, that period must necessarily end at midnight on July 4, 1960.

(61) I am not prepared to hold that the period of six months included January 5, 1960. The term of the Tribunal was extended for a period of six months from January 5, 1960, and it does not appear to me that the expression "from" occurring immediately before the words "5th January, 1960" justifies the view that January 5, 1960, had also to be included in reckoning the period.

(62) It is a well-settled principle that the word "from" is akin to "after" and that the word "from" if used for the purpose of and in reference to the computation of time, as for example, from a stated date, that stated date is prima facie excluded from computation. Although on some occasions, the view has been expressed that the question as to whether the stated date should not be so excluded, should be decided according to the context in which the word "from" occurs. It is clear to my mind that is the context in which the word "from" occurs in the notification issued on January 4, 1960, that date cannot be held to form part of the period of six months for which period the term of the Tribunal was extended.

(63) The provisions of section 9 of the General Clauses Act, although those provisions may be looked into only for the interpret action of the enactment referred to in that section, do afford to my mind valuable guidance as to the method to be adopted for the purpose of computation of time even in notifications issued by an authority in the exercise of power conferred on it by law.

(64) Section 9 of the General Clauses Act merely incorporates, in my opinion, a Principle which is too well settled and I do not see any justification for thinking that the computation of time under a notification issued under a statute has to be made differently from the manner in which it is directed to be made if the computation has to be made under the statute itself.

(65) I am, therefore, unable to accede to the contention that there was in this case any ex post facto extension of the term of the Tribunal and that being so,

it would be unnecessary for me to consider the permissibility of such ex post facto extension.

(66) What remains is only to consider the argument that Mr. Malimath having been only an additional Judge of this Court was not qualified to be appointed to the Tribunal constituted u/s 7-A of the Industrial Disputes Act.

(67) Our attention has been drawn to the provisions of Article 224 of the Constitution which provides for the appointment of additional Judges and to the other provisions of the Constitution which refer to permanent Judges. I am asked to Hold that the expression "a Judge of High Court" occurring in section 7-A(3) () has reference only to a permanent Judge and not to an additional Judge.

(68) It seems to me impossible to sustain this contention. I am of the view that an additional Judge appointed under Article 224 of the Constitution is as much a Judge of a High Court as a permanent Judge appointed by the President. Section 7-A does not require a person appointed to a Tribunal to be or to have been a permanent Judge of a High Court. What it provides is that a person shall not be qualified for appointment as the Presiding Officer of a Tribunal unless he is, or has been, a Judge of a High Court is likely to lead to many incongruous results and consequences.

(69) Article 221 of the Constitution provides that every Judge of a High Court shall be paid such salary as is specified in the Second Schedule to the Constitution speaks only of the salary of a Judge of a High Court and contains no provisions as to the payment of the salary of an additional Judge of a High Court. If an additional Judge of a High Court, it means that no salary is to be paid to an additional Judge.

(70) Then again, Article 223 provides for the appointment of a Judge of a High Court to perform the duties of the office of the Chief Justice of that High Court, when that office is vacant or when any such Chief Justice is, by reason of absence or otherwise, unable to perform the duties of his office. If a High Court and additional Judges and there is no permanent Judge who forms part of the complement of Judges, it would mean that if the office of a Chief Justice is vacant or when such Chief Justice is by reason of absence or otherwise, unable to perform the duties of his office, an additional Judge cannot be appointed to perform the duties of the office of the Chief Justice and that the President will have to appoint someone else to perform such duties.

(71) There is, in my opinion, no reason why we should come to the conclusion that when Parliament enacted section 7-A of the Industrial Disputes Act, the Legislative intent was to exclude persons who are or who have been additional Judges of a High Court from the post of a Presiding Officer of an Industrial Tribunal.

(72) In my opinion, Mr. Malimath, although he was only an additional Judge of a High Court, was fully qualified to be appointed as a Presiding Officer of an

Industrial Tribunal, and his appointment is not open to the criticism that he was only an additional Judge and not a permanent Judge.

(73) These three Writ Petition must therefore fail and are accordingly dismissed.

(74) But, having regard to the no elite of the questions involved in these cases, we should make no order as to costs.

Kalagate, J.

(75) I agree.

(76) Petitions dismissed.