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**(1994) 09 AHC CK 0086**

**In the Allahabad High Court**

**Case No :** C.M.W.P. No's. 21679 to 21684 and 21686 of 1987

U.P. State Electricity Board and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision :** 08-09-1994

**Acts Referred:**

Uttar Pradesh Industrial Disputes Act, 1947 — Section 4

**Citation :** (1995) 2 LLJ 469

**Hon'ble Judges :** R.B. Mehrotra, J

**Bench :** Single Bench

**Advocate :** Tarun Agarwala, for the Appellant; S.C. and R.K. Jain, for the Respondent

**Final Decision :** Dismissed

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## Judgement

R.B. Mehrotra, J.—In all the above seven writ petitions, the same question of law is involved for consideration. On facts also, there is exact similarity for the purposes of deciding the controversy in the writ petitions except in the matter of actual dates in regard to different writ petitions. These small variations on facts, however, do not call for a separate consideration of individual case. The parties counsel have agreed that all the seven writ petitions may be heard and decided as same questions are involved in these writ petitions.

2. However, for convenience of noticing the necessary facts, Civil Misc. Writ petition No. 21679 of 1987 is being treated as a leading case.

3. Factual matrix necessary for decision in the writ petition is noticed hereunder:

Some of the muster roll employees employed in various Divisions of the U.P.State Electricity Board (hereinafter referred to as the Board) were terminated from their service from 1st of February 1979. In the Division to which the present writ petition is concerned, it is stated that services of 60 and odd workers were dispensed with from the aforesaid Division. Out of those workers, whose services were terminated, some of them filed their claim applications before the Regional

Conciliation Officer. Subsequently an order was made by the State Government u/s 4-K of the U.P. Industrial Disputes Act (hereinafter referred to as the Act) and an award was given in favour of the workmen directing their reinstatement.

4. Aggrieved by the aforesaid award, the present petitioner, U.P.State Electricity Board raked up the matter by filing a writ petition in this Court where they also failed. The petitioner thereafter approached the Hon"ble Supreme Court. It is alleged in the writ petition that during the pendency of the matter in the Hon"ble Supreme Court, seven workers were taken back in service and a settlement was arrived at between the petitioner and some of the workers. There is, however, dispute amongst the parties about the actual number of workers taken back in service in pursuance of the aforesaid settlement. However, number of workers reinstated in pursuance of the award given by the Labour Court or as alleged in accordance with the settlement arrived at between the petitioner and those workmen, is not material for the controversy involved in the present writ petition. The material fact in this connection is that those workers were reinstated sometime in the years 1985 and 1986.

5. On reinstatement of those workers in pursuance of the award by the Labour Court or as alleged in pursuance of the settlement arrived at between the petitioner and those workers sometime in the years 1985 and 1986, the respondents-workmen in the present group of writ petitions, filed applications for reconciliation before the Conciliation Officer raising industrial dispute on the ground that their services have been illegally terminated by the petitioner employer. Respondent No. 4 in the leading case gave an application to the Regional Conciliation Officer on July 18, 1985. The petitioner objected to the said application mainly on the ground that the application has been filed after more than 7 years, as such is belated and the application does not show any reasonable circumstance for condoning the delay in raising the dispute. In the application given by respondent No. 4, in paragraph "8" it was specifically stated that the employers, all the time were assuring the respondent-workmen that many similar workmen had already filed their claim and as soon as their matter is decided, the respondent workmen will also be taken back in service.

6. However the petitioner contested the statement and in the schedule filed along with the objection the petitioner took the stand that no such assurance as alleged by the workmen in paragraph 8, was given by the petitioner to the workmen. It was also contended in the objection that the respondent workman have not continuously worked with the petitioner for requisite number of days as alleged in the application.

7. The Regional Conciliation Officer, vide his order, dated February 17, 1986 recommended to the State Government to refer the dispute to the Labour Court, u/s 4-K of the Act, despite the aforesaid recommendation of the Regional Conciliation Officer, the State Government declined to make reference, vide its order, dated July 28, 1986, which has been filed as Annexure 5 to the writ petition. However, when the State Government declined to make the reference

despite the recommendation of the Regional Conciliation Officer, the workers union took up the matter and represented to the Labour Commissioner, Kanpur for reconsideration of the State Government's decision wherein the Union specifically contended that the employees who have been reinstated in service in pursuance of the award given by the Labour Court or in pursuance of the settlement arrived at between the petitioner, those workmen were junior to the present contesting respondents, as such the cause of action agitating the issue arose on such reinstatement and there was no delay in agitating the matter, the State Government without considering the aforesaid aspect has refused to refer the dispute. In the aforesaid background, the Labour Commissioner wrote back to the Regional Conciliation Officer that the delay was sufficiently explained by the workmen in the present context, as such the matter requires reconsideration. The Regional Conciliation Officer was requested to take up the matter. It is noteworthy to mention at this stage that in the applications made by the respondent workmen before the Regional Conciliation Officer, it was not stated that the workmen taken back in service were junior to the present contesting respondents and the Regional Conciliation Officer, in his report, dated February 17, 1986 filed as Annexure C.A-3 to the counter affidavit of the State Government also did not mention regarding the condonation of delay in raising the dispute. In this background, the Labour Commissioner sent the matter back to the Regional Conciliation Officer for reconsideration in the context of the issue raised by the Labour union. The letter of the Labour Commissioner has been filed as Annexure "7" to the writ petition.

8. On receiving the aforesaid letter of the Labour Commissioner, the Regional Conciliation Officer issued notice to the petitioner stating therein that in connection with the dispute raised by the respondent workmen, the petitioners may present themselves on August 29, 1986 before the Regional Conciliation Officer along with the records of the aforesaid cases. A copy of the notice sent by the Regional Conciliation Officer has been filed as Annexure "8" to the writ petition. In reply to the aforesaid notice, the petitioner filed an objection before the Regional Conciliation Officer wherein they raised legal and technical pleas and submitted that a regular enquiry should be made regarding the termination of the services of the contesting respondents before considering the matter for re-conciliation. This approach on the part of the petitioner was wholly unjustified as for the purposes of re-conciliation, the Regional Conciliation Officer was not required to hold a regular enquiry as desired in the objection filed by the petitioner. The objection of the petitioner has been annexed as Annexure "9" to the writ petition.

9. The Regional Conciliation Officer, vide his letter, dated January 12, 1987, filed as Annexure, "11" to the writ petition, stated that out of 63 workmen whose services were terminated by the petitioner, 22 were taken back, who raised dispute before the Regional Conciliation Officer. The workmen have worked for more than 240 days in a year and the employers have not produced any new fact in this connection and it is clear from the records that out of several workmen

whose services were terminated, the employers themselves have taken back some of them, it will be unjust not to accommodate the respondents on the same basis on the basis of which some workmen were taken back in service. It was also noticed in the said letter that the employers have not produced the attendance register of the respondent workmen. In the; aforesaid background, the Regional Conciliation Officer seems to have again recommended to the State Government to re-consider the matter and refer the dispute to the Labour Court.

10. The State Government, vide its notification dated July 27, 1987 has referred the dispute to the Labour Court, u/s 4-K in the following terms- "as to whether the employers were justified in terminating the services of the workmen from 1st of February, 1979? To what relief and benefits the workmen are entitled to receive?"

11. Aggrieved by the aforesaid reference order, the present writ petition has been filed. This Court admitted the writ petition as far back as on November 25, 1987 and stayed the proceedings in Adjudication Case.

12. Both the State Government and the contesting respondents workmen have filed their separate counter affidavits along with the stay vacating applications. The contesting respondents- workmen have filed their stay vacating: application as far back as in the year 1992 but the said application never came up before the Court for consideration.

13. The present matter came up before me for consideration of vacating or confirming the interim order. In the circumstances of the present case particularly with reference to the circumstance that the adjudication proceedings are stayed for last seven years and a dispute regarding the workmen is pending since 1979, it is appropriate that the objection raised by the employers at the interlocutory stage of making a reference by the State Government for adjudication of the dispute should be resolved for ensuring expeditious justice between the parties. In this background, it was suggested by Sri Tarun Agarwala, learned counsel for the petitioners, and Sri. R.K.Jain and the learned Standing Counsel for the respondents that the matter should itself be heard instead of deciding the interim application.

14. With the consent of the parties the matter was finally heard.

15. Learned counsel for the petitioner Sri Tarun Agarwala challenged the aforesaid reference order on the following grounds:-

(i) The reference order, dated July 27, 1987 refers to a dispute of termination of workmen made as far back as in the year 1979 which amounts to raking up an old and stale dispute and thereby creating a situation of unrest in the undertaking. The reference order is contrary to the very purpose of settling the industrial dispute and ensuring peace in the undertaking.

(ii) The State Government having declined to make a reference at an earlier stage, it was not open to it to make a second reference without giving

opportunity of hearing to the petitioner.

(iii) The State Government having declined to make a reference, there was no fresh material thereafter before it to make a reference again. The State Government cannot change its opinion merely on the basis of the existing material, as such the order is patently bad in law.

(iv) The order of the State Government is patently arbitrary and it is based on no fresh material for referring an industrial dispute which was declined earlier.

16. Before examining the decision cited by the learned counsel for the parties, it is necessary to analyse the factual situation on the basis of the documents available on the record of the writ petition as submissions made by the counsel for the parties are to be tested on the basis of the factual matrix so analysed.

17. Initially the services of more than 60 and odd workers engaged on muster roll were dispensed with on February 1, 1979. Some of the workers raised dispute which was decided by the Labour Court in their favour on a reference having been made by the State Government. The Labour Court up-held the claim of the workers and directed reinstatement with back wages. The Petitioner employer unsuccessfully agitated the matter in the High Court, when the matter was pending in Supreme Court, it ultimately resulted into a compromise between those workmen and the petitioner employer and those workmen were reinstated in 1985. Immediately thereafter, the contesting workmen, respondent in the present matter, who were waiting for the result of the aforesaid litigation by their co-workers, individually applied u/s 2-A of the Act for constituting a Conciliation Board for settling their dispute. The Regional Conciliation Officer, after hearing the workmen and the employer, recommended to the State Government for referring the dispute to the Industrial Tribunal. The State Government, in its turn, by an order declined to make a reference. It is not clear from the record as to on what basis the State Government declined the reference. On State Government declining to refer the matter to the Labour Court, the workers Union took up the matter and the Union pointed out to the Deputy Labour Commissioner that patent injustice has been done with the present set of workmen-respondents as the workmen junior to them have been reinstated merely on the ground that they had agitated the matter in the court. The cause of action for raising the dispute again was not the action of terminating the services of the muster roll employees in 1979 but the cause of action arose in 1985 when the workmen junior to the present set of respondent-workmen were reinstated according to the version of the Union. Keeping in view that such a situation is likely to create unrest in the Undertaking, the Deputy Labour Commissioner referred the matter to the Regional Conciliation Officer who in turn again issued notice to the petitioner employer, heard them and was satisfied that the employers are taking only technical objections to the reference and have not produced records to substantiate that the workmen so reinstated were not junior to the present set of respondent-workmen, recommended to the State Government for making a reference of the dispute. On this recommendation, the

State Government made the reference which is under challenge in the present set of writ petitions. These facts clearly bear out that it was not an old and stale dispute but the cause of action for the present dispute arose only in the year 1985 when according to the workmen and the union the workmen junior to the respondent were reinstated in service though those workmen who were reinstated and the present set of respondent-workmen were terminated by one order. This fact is also to be taken note of, that it makes a lot of difference for the purposes of maintaining industrial peace when individual workman is agitating the matter and when Union takes up the cause.

18. The State Government, u/s 4-K of the Act is authorised to refer the dispute or any matter appearing to be connected with, or relevant to the dispute, to a Labour Court at any time by order in writing, if it is of the opinion that any industrial dispute exists or is apprehended. The opinion of the State Government is subjective opinion; of course, it is to be based on certain materials. In the present case, the State Government when initially refused the reference on the asking of an individual workman, may have formed the opinion that industrial dispute is not apprehended in the circumstances of the case, but when the matter was taken up by the union and the Union took up the cause that since muster roll employees junior to the present set of workmen have been reinstated, the present set of respondent- workmen may also be given the same benefit. In this changed context and in view of fresh material brought up by the workmen Union, it was open to the State Government to change its opinion and decide to refer the dispute to the Labour Court. So far as Section 4-K of the Act is concerned, it does not lay down any time limit for making a reference to the dispute, but certainly the State Government will not rake up a stale and old dispute. In the present context the dispute was neither stale nor old. The cause of action arose only in the year 1985 when junior muster roll employees than the present set of respondent workmen were reinstated in service. On the aforesaid basis, the legal submissions made by the learned counsel for the petitioners are misconceived as the very premise for making the submission that by making a reference, the State Government has raked up an old and stale issue and that there was no fresh material for the State Government for making a reference is misconceived. On the facts of the case, it is also not correct that the petitioners were not given opportunity before making second reference by the State Government. The Regional Conciliation Officer heard the petitioners at the stage of recommending to the Government for making a reference second time. This was sufficient opportunity to the petitioners employer and the contention to the contrary made by the learned counsel for the petitioner is not borne out from the record of the case. On the aforesaid analysis the argument of the petitioners that the order of the State Government is arbitrary also falls through as it is demonstrated that the State Government had fresh material to look into the matter and come to conclusion that an industrial unrest is apprehended in the Undertaking.

19. In the present context, it is necessary also to examine the context in which

Section 4-K of the Act has been legislated and the object the legislature desired to achieve by enacting the said provision which was substituted by U.P. Act No. 1 of 1957 in the present Act. In the background of situation prevailing after Second World War, it was realised that loss of every working hour adds to the suffering of the community. In these circumstances, it was thought necessary that the Government should have powers for maintaining industrial peace and production and for the speedy and amicable settlement of industrial dispute; with the aforesaid object in mind U.P. Industrial Dispute Act was enacted.

20. The scope of Section 4-K of the Act is to be interpreted in the aforesaid background and keeping it in mind that an amendment was made in 1957 by adding Section 4-K in the Act wherein the State Government was given powers to refer an industrial dispute only on the basis that the Government is of the opinion that industrial dispute exists or apprehended. The only point for testing the correctness of the order passed u/s 4-K is that as to whether there is any material for making such reference. In view of the settled interpretation of law, the court cannot examine the sufficiency of the material; the court can examine only the relevancy of the material. In the present context, the petitioner has failed to establish that the opinion of the State Government was not based on any material. On the contrary it is proved on the record that there was sufficient material for the State Government for forming such opinion at the stage it referred the dispute.

21. The Act has been enacted for protecting and safeguarding the interest of the workmen and for ensuring the industrial peace. The interpretation of the provisions of the Act should be made for advancing the cause for which it has been enacted. Whittling the power of the State Government by putting a narrow interpretation on the powers of the State Government u/s 4-K of the Act will be defeasance of the purpose of the enactment. If the submission of the learned counsel for the petitioner that the State Government has no power to make a reference in the matter where it has earlier refused to make reference is accepted, it will nullify the very purpose and object of the Act. The power of the State Government is absolute. The only rider is that the opinion of the State Government should be based on some material. Once the order of reference stands the said test the courts should not intervene in the matter and create a situation of unrest in the industry and thereby defeat the cause for which the Act has been enacted.

22. In *M/s Avon Services Production Agencies (P) Ltd. v. Industrial Tribunal, Haryana* reported in 1979 I LLJ (SC), it was held in page 4 that Section 10(1) of the Act confers discretionary power which can be exercised on being satisfied that industrial dispute exists or is apprehended and there must be some material on which the Government must form opinion and the adequacy and sufficiency of the material on which the opinion was formed was beyond the pale of judicial scrutiny and even the second reference can be made. But the expression "at any time" indicated that the discretionary power exercised by the Central

Government was unfettered and the only condition was that it must be satisfied that industrial dispute existed or the same was apprehended.

23. In *Chief General Manager, State Bank of India, Lucknow v. B.C. Verma* reported in (1994) 68 Fac LR 777, considering a similar provision under the Industrial Disputes Act this Court held:

"There appears to be another reason for the expression "at any time" has been used u/s 10(5) of the Act. The Act is not a simple statute rather it contains the provision of social beneficent legislation with a view to render social justice to the workmen. The social justice was cherished goal of the framers of the Constitution and the same was incorporated in the Preamble of the Constitution. The aims and object intended in the preamble of the Constitution indicate the aspirations of the people. The observations in *Sadhuram Bansal Vs. Pulin Behari Sarkar and Others*, , are set out:

"Justice social, Economic and Political, preamble to our Constitution : Administration of justice can no longer be merely protector of legal right but must wherever be possible dispenser of social justice. Bentham's greatest happiness of greater number- theory in administering justice-social or legal-jurisprudence has shifted away from fines upon technicalities and abstract rules to recognition of human beings and human needs and if they cannot be fulfilled without deprivation of existing legal rights of any party concerned, courts must lean towards mat."

The approach to a statute of predominant social nature (i.e. as the provisions of the Industrial Disputes Act) has to be made in that light. The Court must take a broad view of the background and policy of the statute in question (see *Summers v. Seaford Corporation* (1943) AC 283; *Okerake v. Brant London Borough Council* (1967)1 QB 42).

To put it differently, the Act imposes social amelioration giving more benefits to the workmen. These provisions in my opinion must receive not a simple construction, rather a purposive construction with a view to advance the object of the Act sought to be achieved.

In my opinion Appropriate Government is the sole judge in making the Reference under Sections 10(1) and 10(5) for adjudication, provided there exists an industrial dispute or the same is apprehended and there is no time limit for making the Reference fortiorari, there is no question of any delay or condonation of the same."

24. Learned counsel for the petitioners has referred to and relied upon an order of the State Government issued under clause (d) of Section 3 of the U.P.Industrial Disputes Act, 1947 and in continuation of Notification No. 738 (ST)/XXXIA-112(ST) 1957, dated December 31, 1957 wherein a proviso has been added Sub-clause (ii) of Clause 2 of the order, as under:-

"Provided that no such application shall ordinarily be entertained by the

Conciliation Officer if it is in respect of a dispute arising more than six months previous to the date of the application, or if the dispute has already been the subject of proceedings before a Conciliation Board, a Labour Court or a Tribunal (or an Arbitrator) and finally settled therein."

25. On the basis of the aforesaid provision it is contended by the petitioner's counsel that since the present dispute raised by the respondent workmen in the year 1985 relates to their termination of service in the year 1979, the Conciliation Officer could not have entertained the application moved by the workmen under Sub-clause (ii) of Clause 2 of the order. The Order does not prescribe any period of limitation nor any such limitation is contemplated by the language of Section 4-K of the Act. The word "ordinarily" used in the second proviso quoted above is indicative that in appropriate circumstances, the Conciliation Officer can entertain such applications beyond such period of six months contemplated by the said proviso. The said proviso is also to be interpreted liberally in favour of the workmen and any strict interpretation of the language of the proviso defeats the very object and purpose of Section 4-K of the Act. In the aforesaid context the reliance placed by the petitioners' counsel on the said proviso is misconceived.

26. Petitioners' counsel has placed reliance on *Shalimar Works Limited Vs. Their Workmen*, wherein the Supreme Court made the following observations (at p. 31):-

"It is true that there is no limitation prescribed for reference of disputes to an Industrial Tribunal; even so, it is only reasonable that disputes should be referred as soon as possible after they have arisen and after conciliation proceedings have failed, particularly so when disputes relate to discharge of workmen wholesale as in this case."

27. The aforesaid decision was on its own facts and the Supreme Court justified the decision of the Tribunal refusing a relief of reinstatement to avoid dislocation of the industry. The Supreme Court was not considering the scope of power of the State Government for making reference. The observation of the Supreme Court should be read in the context wherein the Supreme Court categorically stated: (p. 31):

"We are of the opinion that in this particular case the dispute was not referred for adjudication within a reasonable time....."

28. No general principles were laid down regarding the scope of the Government for referring the dispute. The observation should be confined to the facts of the case as stated by the Supreme Court itself. The said case was concerned with a situation where wholesale workmen of the Industry were retrenched and in their place new workmen were engaged. Thereafter the retrenched workmen agitated the matter. The Tribunal refused the relief in view of the said developments. The view of the Tribunal was upheld in the said context, the decision has no bearing on the facts of the present case and in the context in which the State

Government has decided to refer the dispute.

29. In *M/s. Western India Match Co. Ltd v. The Western India Match Co. Workers Union* reported in (1.970-II-LU-256) the Hon"ble Supreme Court held p.264:

"... If the Government subsequently found that its earlier decision was based on such a misapprehension and on facts brought to its notice it reconsiders the matter and decides to make the reference it is difficult to say that it exercised the discretion conferred on it by Section 4-K in any inappropriate manner .....

30. Thereafter the Supreme Court clarified that, however, the Government should not reconsider the decision merely on the ground that the Union has stepped in. However, in the same decision the Supreme Court categorically laid down as under (Para 13):

"It is true that where a Government reconsiders its previous decision and decides to make a reference, such a decision might cause inconvenience to the employer because the employer in the meantime might have acted on the belief that there would be no proceedings by way of adjudication of the dispute between him and his workmen. Such a consideration would, we should think, be taken into account by the Government whenever, in exercise of its discretion, it decides to reopen its previous decision as also the time which has lapsed between its earlier decision and the date when it decides to reconsider it. These are matters which the Government would have to take into account while deciding whether it should reopen its former decision in the interest of justice and industrial peace but have nothing to do with the jurisdiction u/s 4(K) of the Act. Whether the intervening period may be short or long would necessarily depend upon the facts and circumstances of each case, and therefore, in construing the expression "at any time" in Section 4-K would be impossible to lay down any limits to it."

31. The aforesaid decision clinches the issue that u/s 4-K of the Act, the State Government has power to make second reference having refused the same at an earlier stage if the circumstances so require. The factual matrix of the case, stated above, bears out that in the circumstances of the case, the State Government was justified in making the said reference.

32. The second contention of the petitioners" counsel is that at the stage of making the second reference, the employer should be given an opportunity of showing cause and in support of the aforesaid submission, the petitioners" counsel has relied upon the following decisions:-

1. *Binny Ltd. Vs. Their Workmen*, .

2. (*Supra*) *M/s. Avon Services Production Agencies (P) Ltd, v. Industrial Tribunal, Haryana*.

3. *Management of Theatre Sanjaya Vs. The State and Others*, .

4. 1980 I LLJ 215 Mad), *G.Muthukrishnan v. New Horizon Sugar Mills (P) Ltd, Pondicherry*.

33. I have already held that the petitioners were given opportunity even at the stage of making second reference by the Regional Conciliation Officer. In view of the aforesaid finding, it is not necessary to examine this contention of the petitioners by referring to the case law cited by the petitioners. However, I may add that a Division Bench of this Court in *Indian Explosives Ltd. (Fertilizer Division) Panki, Kanpur v. State of U.P.* 1981 I LLJ 423) has taken the view that when the State Government by omission or by a positive order declines to make a reference, there is no exercise of powers u/s 4-K of the Act and, therefore, when the State Government ultimately does choose to make a reference the question of affording the management a hearing before taking different decision does not and cannot arise. The aforesaid Division Bench decision has been followed by a learned single Judge of this Court in *U.P.State Electricity Board, Lucknow v. State of U.P.* reported in (1994-II-LLJ-1008). In this decision, the learned single Judge has also considered the Full Bench Decision of Karnataka High Court, reported in 1984 II LLJ 400 KAR), which was not considered by the Division Bench of this Court. I am in full agreement with the decision of the learned single Judge and of the Division Bench of this Court, referred to above. A proper interpretation of Section 4-K of that Act will show that before exercise of power by the State Government, only an effort has to be made by the Conciliation Officer to settle the dispute. This effort was made by the employer refused to relent, consequent thereto, the Regional Conciliation Officer again recommended to the Government to refer the dispute and thereafter no rider can be put on the State Government for providing any opportunity to the employer for contending that the dispute should not be referred to the Labour Court. The scheme of the Industrial Disputes Act is for ensuring industrial peace and for ensuring that the workmen be not driven to regular courts for settling their disputes and for further ensuring speedy settlement of the dispute. The employer has no right to be heard at the stage of making a reference as the State Government by making a reference to the Labour Court only permits a dispute to be adjudicated upon by the Labour Court. The right of the employer is not prejudiced in any manner if the dispute is referred to the Labour Court. This is for the State Government to be satisfied whether the dispute exists or apprehended. The employer cannot have any say in the matter till the stage of making reference of the dispute. This of course is subject to the condition that subjective opinion of the State Government should be formed on the basis of some material and should not be arbitrary. As already held that there was sufficient material before the State Government for making reference, the argument of opportunity raised by the petitioners is wholly misconceived and is hereby rejected.

34. It is not necessary to mention some other decisions cited by the petitioners" counsel in support of his contention for canvassing the aforesaid point.

35. However, before departing with the case, I may observe that the U.P. State Electricity Board is a State undertaking and is State for all practical purposes. It should not adopt confrontationist attitude against its workmen. The attitude

should have been of re-conciliation. In any case, if the reconciliation fails then it was wholly unjustified for the petitioners to have challenged the order of reference made by the State Government. The U.P. State Electricity Board should not have made an attempt to stall the proceedings before the Labour Court challenging the order of the State Government making a reference to the Labour Court. A State Undertaking should not feel shy in getting the dispute adjudicated by the Labour Court on merits. The Undertaking or the Corporations run by the State Government should not fight their litigation like a private person and should have a broader approach for giving a fair deal to their workmen which can be ensured by adjudication of the dispute. I am satisfied, in the circumstances of the present case that challenging the order of reference by the petitioner on such technical pleas as raised in the present writ petition was wholly ill-advised and did not behave an Undertaking like the U.P.State Electricity Board.

36. All the submissions made by the petitioners' counsel having failed, the writ petitions are dismissed with costs. In view of the fact that the petitioners have with-held the adjudication of the dispute for 7 years, I impose special cost on the U.P.State Electricity Board of Rs. 5,000/- in each case, which will be paid by the petitioner to the workmen-respondents in each case, within a month. I also direct that in pursuance of the reference order made by the State Government, the Labour Court should expeditiously decide the dispute raised by the respondent-workmen, as far as possible, within three months of the receipt of the certified copy of this judgment. The interim orders passed in all the writ petitions are vacated.