

**A.F.R.**  
**Neutral Citation No. 2024:AHC:63949**  
**Reserved on 28.02.2024**  
**Delivered on 12.04.2024**

**Court No. - 51**

**Case :-** WRIT - C No. - 292 of 2024

**Petitioner :-** The Indian Express Pvt. Ltd.

**Respondent :-** Union of India

**Counsel for Petitioner :-** Sunil Kumar Tripathi

**Counsel for Respondent :-** A.S.G.I., Anand Kumar Chaubey, Man Mohan Singh, C.S.C.

with

**Case :-** WRIT - C No. - 21508 of 2023

**Petitioner :-** The Indian Express Pvt. Ltd.

**Respondent :-** Union Of India And 5 Others

**Counsel for Petitioner :-** Devesh Tripathi, Sandeep Pandey, Sunil Kumar Tripathi

**Counsel for Respondent :-** A.S.G.I., C.S.C., Man Mohan Singh

with

**Case :-** WRIT - C No. - 21512 of 2023

**Petitioner :-** The Indian Express Pvt. Ltd.

**Respondent :-** Union Of India And 5 Others

**Counsel for Petitioner :-** Devesh Tripathi, Sandeep Pandey, Sunil Kumar Tripathi

**Counsel for Respondent :-** A.S.G.I., C.S.C., Man Mohan Singh

with

**Case :-** WRIT - C No. - 21513 of 2023

**Petitioner :-** The Indian Express Pvt. Ltd.

**Respondent :-** Union Of India And 5 Others

**Counsel for Petitioner :-** Devesh Tripathi, Sandeep Pandey, Sunil Kumar Tripathi

**Counsel for Respondent :-** A.S.G.I., C.S.C., Man Mohan Singh

with

**Case :-** WRIT - C No. - 21526 of 2023

**Petitioner :-** The Indian Express Pvt. Ltd.

**Respondent :-** Union Of India And 5 Others

**Counsel for Petitioner :-** Devesh Tripathi, Sandeep Pandey, Sunil Kumar Tripathi

**Counsel for Respondent :-** A.S.G.I., C.S.C., Man Mohan Singh

with

**Case :-** WRIT - C No. - 21531 of 2023

[2]

**Petitioner :-** The Indian Express Pvt. Ltd.

**Respondent :-** Union Of India And 5 Others

**Counsel for Petitioner :-** Devesh Tripathi, Sandeep Pandey, Sunil Kumar Tripathi

**Counsel for Respondent :-** A.S.G.I., C.S.C., Man Mohan Singh

with

**Case :-** WRIT - C No. - 21538 of 2023

**Petitioner :-** The Indian Express Pvt. Ltd.

**Respondent :-** Union Of India And 5 Others

**Counsel for Petitioner :-** Devesh Tripathi, Sandeep Pandey, Sunil Kumar Tripathi

**Counsel for Respondent :-** A.S.G.I., C.S.C., Man Mohan Singh

with

**Case :-** WRIT - C No. - 21553 of 2023

**Petitioner :-** The Indian Express Pvt. Ltd.

**Respondent :-** Union Of India And 5 Others

**Counsel for Petitioner :-** Sandeep Pandey, Sunil Kumar Tripathi

**Counsel for Respondent :-** A.S.G.I., C.S.C., Man Mohan Singh

with

**Case :-** WRIT - C No. - 21575 of 2023

**Petitioner :-** The Indian Express Pvt. Ltd.

**Respondent :-** Union Of India And 5 Others

**Counsel for Petitioner :-** Devesh Tripathi, Sandeep Pandey, Sunil Kumar Tripathi

**Counsel for Respondent :-** A.S.G.I., C.S.C., Man Mohan Singh

with

**Case :-** WRIT - C No. - 21577 of 2023

**Petitioner :-** The Indian Express Pvt. Ltd.

**Respondent :-** Union Of India And 5 Others

**Counsel for Petitioner :-** Sandeep Pandey, Sunil Kumar Tripathi

**Counsel for Respondent :-** A.S.G.I., C.S.C., Man Mohan Singh

with

**Case :-** WRIT - C No. - 21593 of 2023

**Petitioner :-** The Indian Express Pvt. Ltd.

**Respondent :-** Union Of India And 5 Others

**Counsel for Petitioner :-** Devesh Tripathi, Sandeep Pandey, Sunil Kumar Tripathi

**Counsel for Respondent :-** A.S.G.I., Ankur Goyal, Man Mohan Singh

**Hon'ble Rohit Ranjan Agarwal,J.**

1. Through all these writ petitions, a challenge has been made to the notification dated 12.11.2014 issued by State Government specifying the officers mentioned in Column II to be “authorities competent” to dispose the application under Section 17 of “Working Journalists and other Newspaper Employees (Conditions of Service) and Misc. Provisions Act, 1955” (for short ‘*Act 1955*’), the reference order dated 10.03.2023 passed by Assistant Labour Commissioner, Gautam Budh Nagar and order dated 22.05.2023 passed by Labour Court, NOIDA rejecting the application regarding jurisdiction of Court.

2. Writ Petition No. 292 of 2024 assails the order dated 10.11.2023 passed by Labour Court, NOIDA, Gautam Budh Nagar in WJA Case No. 01/2023, 02/2023, 03/2023, 04/2023, 05/2023, 06/2023, 07/2023, 08/2023, 09/2023, 10/2023 and 11/2023. As all the cases are interconnected and petitioner is same in all the writ petitions, with the consent of the parties, they are heard and decided together. Writ Petition No. 292 of 2024 is taken as the leading case.

3. Petitioner before this Court, The Indian Express Pvt. Ltd. is a company incorporated under the provisions of Companies Act having its registered office at Mumbai and branch office at NOIDA at Express Building B1/B Sector 10 NOIDA and also a factory at NOIDA. It is a media group known as “Indian Express Group” or “Express Group”. Respondent nos. 7 to 15 are newspaper employees of petitioner company as defined under Section 2(c) of Act 1955. Except respondent no. 13 who is a working journalist as defined under Section 2(f). The other contesting respondents are non-journalist newspaper employees covered under Section 2(dd) of the Act 1955.

4. The Act 1955 was enacted for improvement and regulation of service condition of working journalists and other employees. The Act covers entitlement of gratuity, provident fund settlement of industrial disputes, leave with pay, hours of working and minimum wages.

5. Section 2(b) defines “newspaper” which means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by Central Government in the Official Gazette. Section 2(c) defines “newspaper employee” which not only means working journalists but also includes any other person employed to do any work in, or in relation to, any newspaper establishment.

6. Section 2(dd) was inserted by Act No. 60 of 1974 which defines “non-journalist newspaper employees” which covers person employed to do any work in, or in relation to, any newspaper establishment, but does not include a working journalist or other employees employed mainly in a managerial or administrative capacity or in a supervisory capacity.

7. “Working journalists” have been defined in Section 2(f) which means persons whose principal avocation is that of journalist and also includes an editor, a letter-writer, news-editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonists, news-photographer and proof-reader. Section 3 of Chapter II provides that provisions of Industrial Disputes Act, 1947 (for short ‘*Act of 1947*’) shall be subject to modification specified in sub-section (2), apply to, or in relation to, working journalists as they apply to, or in relation to workmen within the meaning of that Act.

8. Section 9 provides for the procedure for fixing and revising rates of wages in respect of working journalists by Wage Board constituted by Central Government. The recommendation made by Wage Board accepted by Central Government are notified under Section 12 of the Act. Section

13 thereafter provides that working journalists will be entitled to wages at the rate not less than those specified in the order on coming into operation of an order of Central Government under Section 12.

9. Chapter II-A deals with non-journalist newspaper employees. Section 13-B provides for fixation or revision of rates of wages of non-journalists newspaper employees. Section 13-C provides for constitution of Wage Board by Central Government for fixing and revising the wages of non-journalist newspaper employees.

10. The Central Government in exercise of power under Section 9 and 13-C of the Act 1955 had constituted two Wage Boards under Chairmanship of one Dr. Justice Narayan Kurup. When Justice Narayan Kurup resigned, Justice G.P. Majithia was appointed as Chairman of two Wage Boards. He made recommendation to Central Government on 31.12.2010, which was accepted on 25.10.2011 and notification under Section 12 was published on 11.11.2011.

11. Various newspaper establishments challenged the Majithia Wage Board Award under Article 32 of Constitution of India before Hon'ble Apex Court, leading case being **ABP (Private Ltd.) vs. Union of India, (2014) 3 SCC 327**. The Apex Court dismissed all the petitions and held that wages as revised/determined shall be payable from 11.11.2011 when the Government of India notified the recommendation of Majithia Wage Boards. All the arrears upto March, 2014 shall be paid to all eligible persons in four equal installments within a period of one year and continue to pay the revised wages from April, 2014 onwards.

12. As the wages and allowances as per Majithia Wage Board were not paid various contempt petitions were filed before Hon'ble Apex Court. The contempt petitions were decided by judgment and order dated 19.06.2017, **Avishek Raja and others vs. Sanjay Gupta, (2017) 8 SCC 422**. In para no. 29 of the said judgment, the Apex Court directed that

henceforth all the complaints with respect to non implementation of Majithia Wage Board Award or otherwise be dealt with in terms of mechanism provided under Section 17 of the Act.

**13.** The State Government in exercise of its power under sub-section (1) of Section 17 of Act 1955 issued notification dated 12.11.2014 which was published in Official Gazette specifying the “officers competent” to dispose of application made under Section 17 of Act 1955.

**14.** In **Pradhan Prabandhank/Unit Head M/s. Amar Ujala vs. State of U.P. and others, 2018 (7) ADJ 715**, the dispute arose as to competence of Deputy Labour Commissioner referring a dispute under Section 17(2) of Act 1955 to Labour Court. This Court found that State was competent to delegate power for reference as it was an administrative Act. Relevant paras 28, 29, 30, 31, 31 and 32 are extracted hereasunder:-

*“28. The apex court in the case of Samarjit Ghosh's case (supra) had therefore observed that when all the provisions of section 17 are considered together it is apparent that they constitute a single scheme. The apex court in Samarjit Ghosh's case (supra) was dealing with a situation where a newspaper employee had moved an application under section (1) of section 17 of the Act for recovery of dues. A dispute in respect of those dues had been raised and, in the meantime, the newspaper employee had been transferred to a State other than the State where he had moved an application under sub-section (1) of section 17 of the Act. A question arose as to which State Government would have a right to make a reference under sub-section (2) of section 17 of the Act for adjudication of the dispute to effect recovery under sub-section (1). In that context, the apex court had observed that it was the State Government before whom the application of recovery is made which will refer the question as to the amount due to the labour court and the labour court, upon receiving its decision, will forward its decision to the State Government, which will then direct recovery of the amount. While holding so, the apex court had examined the provisions of the Act and had come to a conclusion that when all the provisions of section 17 are considered together, it is apparent that they constituted a single scheme.*

*29. Further, under the Act, 1955, in exercise of powers under section 20 of the Act, 1955, Working Journalists (Conditions of Service) and Miscellaneous Provisions Rules, 1957 (in short Rules, 1957) have been framed. Rule 36 of Rules, 1957 provides for an application under Section 17 of the Act. It reads as follows:-*

*"36. Application under section 17 of the Act. -- An application under section 17 of the Act shall be made in Form 'C' to the Government of the State, where the Central Office or the Branch Office of the newspaper establishment in which the newspaper employee is employed, is situated."*

*Form 'C' has been provided in the Rules, 1957. Title of the application as denoted by Form C is as follows:*

*"FORM 'C'*

*APPLICATION UNDER SUB-SECTION (1) OF SECTION 17 OF THE ACT 45 OF 1955*

*(Rule 36)*

*The aforesaid application is addressed to the Secretary to the Government....."*

**30.** *The Rules, 1957 do not provide for any separate application other than application under sub-section (1) of section 17 of the Act.*

*Having gone through the provisions of the Act, 1955, the Rules framed thereunder, the decisions cited by the learned counsel for the parties and, in particular, the decision of the Apex Court in Samarjit Ghosh's case (supra), this Court is of the firm view that section 17 of the Act, 1955 contemplates a seamless single scheme for recovery of amount due to a newspaper employee from any employer under the Act, 1955. The application by a newspaper employee is to be filed under sub-section (1) of section 17 of the Act, as per Rule 36 of Rules, 1957. That application can be filed before the State Government or such authority, as the State Government may specify in that behalf. Where there exists no dispute, the State Government or the authority, so specified, upon being satisfied that any amount is so due, shall issue a certificate for that amount to the Collector and the Collector would, thereafter, recover that amount as an arrear of land revenue. Where a question or dispute arises then a reference is to be made to the labour court for adjudication of the dispute. After adjudicating the dispute, the labour court has to forward its decision to the State Government or authority which made the reference, upon which the amount is to be recovered in the manner provided by sub-section (1) of the Act. Since Section 17, as a whole, creates a single seamless scheme, the State Government, in exercise of its power under sub-section (1) can specify an authority to do all acts which it has power to do under Section 17 of the Act.*

**31.** *In the State of Uttar Pradesh, the State Government, by notification dated 12th November, 2016, has delegated its powers to the Additional/Deputy/Assistant Labour Commissioners of the regions specified to dispose application made under section 17 of the Act, 1955. The notification does not limit the delegation to exercise of power contemplated by sub-section (1) of section 17. It is a broad delegation to exercise power to dispose application under Section 17. Once such power has been conferred upon the*

*Additional/Deputy/Asst. Labour Commissioner, in case of a dispute, the Deputy Labour Commissioner is also empowered to make a reference and such reference would be on behalf of the State Government as one contemplated by sub-section (2) of section 17 of the Act.*

*The contention of the learned counsel for the petitioner that there is a conscious omission of the words "such authority, as the State Government may specify in this behalf" in sub-section (2) of section 17 of the Act, 1955 and therefore it would be deemed that reference can be made only by the State Government and not by the specified authority cannot be accepted because when various parts of section 17 are read as a whole a single seamless scheme emerges. Even otherwise, the notification of the State Government delegates power to the authority specified to deal with applications under Section 17 which necessarily includes power to make reference under Section 17(2).*

*32. It may be observed that a reference under sub-section (2) of section 17 of the Act does not contemplate exercise of judicial/quasi-judicial power and therefore the power which vests in the State Government to make a reference can be delegated and, in fact, by the notification dated 12th November, 2014, the State Government has clearly delegated its power by specifying the authorities who are competent to dispose the applications contemplated by section 17 of the Act. In fact, reference on an application under sub-section (1) upon a question having arisen is a step-in-aid of final disposal of an application under section 17 (1) of the Act, 1955 and, therefore, by conferring power on the specified authority to dispose the application under Section 17, the State Government, by necessary implication, has conferred power to make a reference as well."*

**15.** Thereafter, various media houses challenged the notification dated 12.11.2014 through various writ petitions which was decided by coordinate Bench of this Court on 08.07.2019, leading case being **Hindustan Media Ventures Ltd. Jagatganj Varanasi vs. State of U.P. and others, 2020 (7) ADJ 555** wherein the Court held as under:-

*"15. This Court is constrained to say most respectfully that the reasoning of his Lordship in paragraph 9 of the judgment in Jagran Prakashan Limited vs. State of Punjab and others (supra) is based on some mistaken reading of the U.P. Government Notification, inasmuch as, His Lordship there has held that the U.P. Notification has made a blanket law delegating powers of the Government under Section 17 of the Act to subordinate officers, without specifying whether the delegation is under sub-Section (1) or sub-Section (2) of Section 17. This reading of the U.P. Notification is contrary to the terms of the notification dated 12.11.2014, which clearly spells out that the delegation is under Section 17(1) of the Act. It is not a blanket delegation under*

*Section 17 as held in Jagran Prakashan Limited vs. State of Punjab and others (supra).*

*16. This Court is afraid that if for a fact the basis of distinguishing the decision in Pradhan Prabandhak/ Unit Head M/s. Amar Ujala (supra), were factually correct, which it is not, the assistance sought to be derived by Sri Tripathi from the decision of the Punjab and Haryana High Court would have had more diminished prospects. But, it is not so. This Court has considered the reasoning adopted in Jagran Prakashan Limited vs. State of Punjab and others (supra) by the Punjab and Haryana High Court, and with greatest respect, for all that is said here and in the decision of this Court in Pradhan Prabandhak/ Unit Head M/s. Amar Ujala (supra), this Court is unable to agree.”*

**16.** Facts of leading Writ Petition No. 292 of 2024 are that each of respondents were entitled to get 35% variable pay along with basic wages. The contesting respondents had been being paid their basic wages along with variable pay till March, 2020. From 1st April 2020 to 28 February 2021, the petitioner had deducted substantial amount from 35% variable pay and in case of respondent no. 7, he was paid Rs.1187 instead of Rs.6965, short by Rs.5778. Thus, total shortfall was Rs.63,558. Similarly, respondent no. 8 was paid Rs.74,327/- short for the same period. Respondent no. 9 was paid Rs.63,558/- less, while respondent no. 10 was also paid Rs.63558/- less. Respondent nos. 11, 12, 13, 14 and 15 were paid short by Rs.74,327/-, Rs.74,327/-, Rs.1,47,106/-, Rs.74,327/- and Rs.57,805/-.

**17.** This led to filing of application under Section 17(1) of the Act 1955 before Assistant Labour Commissioner, Gautam Budh Nagar (Prescribed Authority under notification dated 12.11.2014). By order dated 07.12.2022, the Management was directed to pay the deducted amount of wages to respondents. The petitioner challenged the order by filing Writ-C No. 659 of 2023 (The Indian Express Pvt. Ltd. vs. Union of India and others) on the ground that Prescribed Authority under Section 17(1) could not decide the dispute and correct procedure was to make reference to Labour Court for adjudication of dispute. This Court on 21.02.2023 set aside the order dated 07.12.2022 and directed the Prescribed Authority to

refer the dispute to Labour Court within two weeks. After remand the Prescribed Authority has referred the dispute to Labour Court on 10.03.2023 which is WJA Case No. 01/2023, 02/2023, 03/2023, 04/2023, 05/2023, 06/2023, 07/2023, 08/2023, 09/2023, 10/2023 and 11/2023 of the present writ petition and also by the reference order dated 10.03.2023 to Labour Court in all the other connected writ petitions wherein the reference order is under challenge.

**18.** In Writ Petition No. 292 of 2024, the Labour Court had passed the order on 10.11.2023 adjudicating the dispute and directing the petitioner to pay the wages due which was deducted along with 6% interest from the date due till the date of payment while in the other connected writ petitions only reference order dated 10.03.2023 passed by Assistant Labour Commissioner along with notification dated 12.11.2014 issued by State Government and order dated 22.05.2023 passed by Labour Court rejecting the application regarding jurisdiction of Labour Court is under challenge.

**19.** Sri Sunil Tripathi, learned counsel for petitioner submits that challenge through these bunch of writ petitions have been made on five grounds.

**20.** Firstly, the Assistant Labour Commissioner has no jurisdiction to refer a dispute raised by an individual workman for adjudication of dispute other than discharge, dismissal or termination. According to him, before 1965 all disputes were raised by Trade Union or with support of considerable number of workers. Section 2-A was for the first time inserted in Act of 1947 in the year 1965, and later on Section 2-A was also inserted in U.P. Industrial Disputes Act, 1947 (for short 'U.P. Act') in the year 1978, whereby legal fiction was created for giving status of workman to working journalists who are not covered by definition of workman. As per Section 2-A dispute raised by individual workman shall be deemed as

industrial dispute only when it is in regard to discharge, dismissal and termination. Under the Act 1955, there are two categories of employees (i) working journalists (ii) non-journalist newspaper employees. Working journalist in view of their duties are not covered under definition of “workman”. By virtue of legal fiction under Section 3 of Act 1955, working journalists have been given limited right to raise disputes in individual capacity regarding discharge, dismissal and termination of service. Despite Section 2-A, working journalists have no right to raise any dispute in individual capacity for any matter not connected with discharge, dismissal and termination. As far as non-journalist newspaper employees are concerned, they are covered under definition of “workman”, limitation imposed by Section 2-A would apply in their case as it applies to working journalists. Non-journalist newspaper employees were not entitled to raise any industrial dispute before insertion of Section 2-A in the year 1978 in U.P. Act. Since 1978 they have been given right to raise industrial dispute in individual capacity only for discharge, dismissal and termination but have no right to raise dispute in individual capacity for any other matter.

**21.** Secondly, he urged that impugned award has been delivered without permission of appropriate Government for publishing the award. It was statutory obligation of Labour Court to first submit the award to State Government under Section 6(1). Under Section 6(4), Labour Court shall form an opinion whether the award can be published within 30 days as prescribed under Section 6(3). As per Section 6A(1), an award shall become enforceable on expiry of 30 days. As disputed question was referred under Section 17(2) for adjudication to Labour Court, any order passed under Section 17(2) is award and Labour Court is under statutory obligation to submit the award under Section 6(1) to State Government. Impugned award was declared without submitting the award to State Government for forming opinion under Section 6(4).

22. Thirdly, it was urged that Assistant Labour Commissioner has no jurisdiction to refer a disputed issue under Section 17(2) of the Act 1955. According to him, the section confers power of reference only upon the State Government. He then submitted that against the judgment rendered by co-ordinate Bench of this Court in case of **Pradhan Prabandhank (supra)**, three Special Appeal Nos. 777 of 2019, 778 of 2019 and 779 of 2019 have been filed which are pending consideration.

23. Fourthly, it was contended that under Section 17(2) only State Government on its own motion or on the application made to it refer the question to Labour Court. According to him, use of impression “such authority, as the State Government may specify in this behalf” under Section 17(1) and absence of this expression in Section 17(2) is conscious omission and not *casus omissus*. According to him, respondents employees had filed application under Section 17(1) of the Act 1955 but they have not filed any application through Union or with support of considerable number of workers under Section 17(2) of the Act.

24. It was lastly contended that respondents employees filed application under Section 17(1) for claiming partial wages for 11 months from April, 2020 to February, 2021. According to him, the issue regarding payment of wages for COVID-19 period was challenged by several establishments before Hon’ble Apex Court. First petition was filed by **Ficus Pax (P) Ltd. v. Union of India, (2020) 4 SCC 810**, in which vires of notification dated 29.03.2020 was challenged. The Apex Court had passed an interim order.

25. Reliance has been placed upon decisions in cases of **Bennett Coleman & Co. Ltd. v. State of Bihar, (2015) 11 SCC 204**; **Awaz Prakashan (P) Ltd. v. Pramod Kumar Pujari, (2003) 6 SCC 104**; **M/s. Jagran Prakashan Ltd. and another v. Labour Court and others, Writ-C No. 37024 of 2012, decided on 04.08.2020**; **Bharat Heavy**

**Electricals Ltd. v. Anil, (2007) 1 SCC 610; P. Virudhachalam v. Lotus Mills, (1998) 1 SCC 650; Nelson Motis v. Union of India, (1992) 4 SCC 711; Singareni Collieries Co. Ltd. v. Vemuganti Ramakrishan Rao, (2013) 8 SCC 789; CBI v. Ramesh Gelli, (2016) 3 SCC 788 and Indore Development Authority v. Shailendra, (2018) 3 SCC 412.**

26. Sri Man Mohan Singh, learned counsel appearing for workmen submitted that in petitioner establishment there are two categories of employees – (a) working journalist (b) non-journalist newspaper employees (administrative staff and factory staff). Respondent no. 13 belongs to category of working journalist while others are covered under non-journalist newspaper employees. According to him, petitioner has raised legal issues which have already been dealt with by this Court earlier through various pronouncements. The dispute raised as to reference by Assistant Labour Commissioner to Labour Court, it is submitted that Government had delegated the power by notification dated 12.11.2014. The notification was challenged in **Hindustan Media Ventures (supra)** and writ petition was dismissed on 08.07.2019, relying upon the decision rendered in case of **Pradhan Prabandhank (supra)**.

27. Replying to the question that reference of individual workman is not covered under Section 2-A of the Act of 1947, he submitted that Act 1955 is a special Act, enacted specifically for regulating the services of a particular class of employees employed in newspaper establishment. The Act takes note of special feature of these categories of newspaper employees and takes care of their service condition, thus, special Act, in respect of journalist and non-journalist newspaper employees, and excludes general provisions of Industrial Disputes Act. Section 17 has been incorporated as a special remedy for recovery of wages or any other amount due to a working journalist and non-journalist newspaper employee from his employer individually. Reliance has been placed upon

decision of Karnataka High Court in case of **Samyuktha Karnataka vs. M.L. Satyanarayana Rao and another, 1986 LIC 626**. Further, Section 16 provides that if provision of any other law is inconsistent with provisions of Act 1955, the Act 1955 shall have overriding effect. Section 3 is an enabling clause. It does not mean that in case if for specific purpose a provision already exist, it shall not be followed or the Act of 1947 shall prevail over the Act 1955.

**28.** Emphasis has been laid upon the words “employee himself, or any person” used in Section 17(1) which provides right to an individual employee to make an application before the State Government or such authority, in regard to wage or any amount due. Rule 36 and Form-C also provide for making only one application under Section 17(1) and no further application is provided under Section 17(2), thus, application made under Section 17(1) by an employee before Prescribed Authority shall make reference under Section 17(2) to the Labour Court.

**29.** Replying the question as to award having not sent for publication, learned counsel submitted that words used in Sub-section (3) of Section 17 are “decision of Labour Court” and not “award” which is used under the Act of 1947 and cognate statutes, hence, the same is not required for publication under the Act of 1947.

**30.** Reliance has been placed upon decisions in cases of **Samarjit Ghosh v. Bennet Coleman and Co. and others, (1987) 3 SCC 507**; **The Management of Samyutha Karnataka v. M.L. Satyanarayana Rao and another, 1986 LIC 626**, **Rajan Sandhi P. v. Union of India & another, (2010) 10 SCC 338**; **Novttis India Ltd. v. State of West Bengal and others, 2004 (101) FLR 278**; **Smt. Shushila Sharma v. SH. Pawan Sharma, Writ Petition No. 18946 of 2006**, decided on 17.01.2007; **Sadhu Ram v. Delhi Transport Corporation, (1983) 4 SCC 165** and

**State of U.P. and others v. Committee of Management D.A.V. Inter College and another, 2009 (6) ADJ 243 (DB).**

31. I have heard respective counsel for the parties and perused the material on record.

32. Some of the issues raised through these connected petitions have already been answered by this Court in case of **Pradhan Prabandhank (supra)** and **Hindustan Media Ventures (supra)**. However, an attempt has been made from petitioner's side to raise some additional issues along with decided issues for consideration of this Court.

33. Primarily, petitioner has tried to raise jurisdictional issue of reference by Prescribed Authority under notification dated 12.11.2014 to the Labour Court on the premise that it was incompetent to refer as the dispute does not deal with discharge, dismissal and termination of an employee.

34. In **Pradhan Prabandhank (supra)**, this Court had already found that reference under sub-section (2) of Section 17 does not contemplate exercise of judicial/quasi-judicial power and, therefore, the power which vests in the State Government to make a reference can be delegated and, in fact, by notification dated 12.11.2014, the State Government had clearly delegated its power by specifying the authorities who are competent to dispose the applications contemplated by Section 17 of the Act.

35. The Court further found that reference on an application under sub-section (1) upon a question having arisen is a step-in-add of final disposal of an application under Section 17(1) of the Act 1955 and, therefore, by conferring power on the specified authority to dispose the application under Section 17, the State Government, by necessary implication, has conferred power to make a reference as well.

36. In **Hindustan Media Ventures (supra)**, the challenge was laid to notification dated 12.11.2014, and the Court refused to quash the notification and relying upon the decision rendered in **Pradhan Prabandhank (supra)** upheld the notification.

37. Moreover, the Apex Court in **Samarjit Ghosh (supra)** found that all the provisions of Section 17, considered together constitute a single scheme. Relevant para 6 of the judgment is extracted hereasunder:-

*“6. When all the provisions of Section 17 are considered together it is apparent that they constitute a single scheme. In simple terms the scheme is this. A newspaper employee, who claims that an amount due to him has not been paid by his employer, can apply to the State Government for recovery of the amount. If no dispute arises as to the amount due the Collector will recover the amount from the employer and pay it over to the newspaper employee. If a question arises as to the amount due, it is a question which arises on the application made by the newspaper employee, and the application having been made before the appropriate State Government it is that State Government which will call for an adjudication of the dispute by referring the question to a Labour Court. When the Labour Court has decided the question, it will forward its decision to the State Government which made the reference, and thereafter the State Government will direct that recovery proceedings shall be taken. In other words the State Government before whom the application for recovery is made is the State Government which will refer the question as to the amount due to a Labour Court, and the Labour Court upon reaching its decision will forward the decision to the State Government, which will then direct recovery of the amount.”*

38. Rule 36 which finds place in Chapter VI of Working Journalists (Condition of Service) and Misc. Provisions Rules, 1957 provides for application under Section 17 of the Act which shall be made in Form ‘C’ to the Government of the State, where the Central Office or Branch Office of newspaper establishment in which the newspaper employee is employed, is situated.

39. Further, Form ‘C’ was inserted by G.S.R. 1320, dated 01.08.1963, which specifically mentions application under sub-section (1) of Section 17 of the Act 1955. Relevant Form ‘C’ is extracted hereasunder:-

[17]

“Form ‘C’

[See Rule 36]

*Application under sub-section (1) of Section 17 of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955*

To,

The Secretary to the Government of .....(here insert the name of the State Government).

Department of.....(here insert the name of the Department which deals with the labour matters)  
.....(here insert the name of the place where the headquarters of the State Government are situated).

Sir,

I have to state that I Shri/Shrimati/Kumari.....son/ widow/ daughter of....., a working journalist, was entitled to receive from .....(here insert the name and address of the newspaper establishment) a sum of Rs..... on account of.....(here insert gratuity, wages, etc. as the case may be), payable under the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955).

I further state that I was appointed by Shri .....by an instrument, dated ....., to receive the amount of the gratuity on behalf of Shri/Km .....

I further state that I served the said newspaper establishment with a demand notice by registered post on..... for the said amount which the said newspaper establishment has neither paid nor offered to pay to me even though 15 days have since lapsed. The details of the amount due are mentioned in the statement hereto annexed.

I request that the said sum may kindly be recovered from the said newspaper establishment under Section 17 of the said Act, and paid to me as early as possible.

\*[I have been duly authorized in writing by .....(here insert the name of the newspaper employee) to make his application and to receive the payment of the aforesaid amount due to him.]

\*[I am a member of the family of late.....(insert the name of the deceased newspaper employee), being his.....(here insert

*the relationship)* and am entitled to receive the payment of the aforesaid amount due to late .....(*here insert the name of the deceased newspaper employee*].

\*To be struck out when the payment is claimed by the newspaper employee himself.

Station.....

Signature of the applicant

Date.....

Address.....

ANNEXURE

*[Here insert the details of the amount claimed]*”

**40.** Under the Rules, there is no other form except Form ‘C’ which provides for making application under Section 17(1). Moreover, the entire scheme of Section 17 emphasises recovery of money due from an employer. Sub-section (1), (2) and (3) only categorise the stages. Sub-section (1) enumerates the condition when there is no dispute as to the amount, then on an application made by an employee himself or by any person authorised by him, or in case of his death, by any member of his family, the State on its satisfaction that amount is due recover the same through Collector. Sub-section (2) envisages a situation where question arises as to the amount, then on an application which has already been preferred under sub-section (1) of Section 17, the State Government refers the question to Labour Court for adjudication.

**41.** Once the Labour Court makes a decision, it forwards the same to State Government which made the reference and any amount found due by Labour Court is to be recovered in the manner provided in sub-section (1). All the three sub-sections of Section 17 are intertwined, and sub-section (1) and (2) only differentiate the method for arriving at the amount due from an employer to an employee. In case of sub-section (1) where there is no dispute to the amount, the same is recovered from employer by State machinery for the employee.

42. However, in case of any question arisen as to any amount due reference is to be made to Labour Court on the application which has already been preferred in Form 'C' before State Government under sub-section (1) of Section 17. Thus, from the reading of Section 17, it is abundantly clear that it constitutes a single scheme of recovery of money from employer.

43. The State Government while exercising its administrative power had delegated the same by notification dated 12.11.2014 specifying the authorities who are competent to dispose the applications contemplated by Section 17 of the Act 1955.

44. Section 3 of the Act 1955, under Chapter II is only an enabling provision which provides that Act of 1947, subject to modifications specified in sub-section (2), applied to, or in relation to, working journalists. The argument that after insertion of Section 2-A in the Act of 1947 in the year 1965 restricts a working journalist who is covered as a workman from raising an industrial dispute in an individual capacity except in case of discharge, dismissal and retrenchment is totally misplaced.

45. The Act of 1955 was enacted after a Press Commission, which was constituted by Government to inquire, among other things, into the conditions of employment of working journalists, had made certain recommendations for improvement and regulation of such service conditions by means of legislation.

46. By the amendment made in 1974 for other newspaper employees employed in newspaper establishment the Act was made applicable. In **ABP (Private Ltd.) (supra)**, a challenge was laid to the Amendment Act, 1974. The Apex Court disallowed the same and held as under:-

*“23. The petitioners herein have also challenged the vires of the Amendment Act, 1974 on the ground that extending the benefit*

*of the Act to employees other than working journalists is against the object that was sought to be achieved by the original Act since the benefits to other newspaper employees has no rational nexus between the differentia and the object sought to be achieved. In this regard, as already discussed, the challenge as to the singling out of the newspaper industry per se was rejected by the Constitution Bench in Express Newspaper (P) Ltd. [Express Newspaper (P) Ltd. v. Union of India, AIR 1958 SC 578 : 1959 SCR 12] and the newspaper industry was held to be a class by itself. All that the 1974 Amendment did was to only bring the other employees of the newspaper industry (i.e. non-working journalists) into the ambit of the Act and extend the benefits of the Act to them. Thus, the same is also covered as per the reasoning of the Constitution Bench decision of this Court. Therefore, the challenge as to the Amendment Act, 1974 stands disallowed.”*

47. Thus, the Act of 1955 is only an enabling provision for improving and regulating the service conditions of newspaper employees which includes both working journalists and non-journalist newspaper employees.

48. The argument raised by Sri Tripathi that Assistant Labour Commissioner had no jurisdiction to refer dispute raised by an individual workman except in case of discharge, dismissal or termination is thoroughly misplaced. The Act of 1947 only supplements the cause of working journalists, but in no way it restricts in reaping the benefits provided under the Act 1955, especially under Section 17, which is a scheme of recovering of dues of an employee from its employer.

49. Now coming to another issue that decision rendered by Labour Court post reference is whether an award or simplicitor a decision. The word employed in sub-section (3) of Section 17 is ‘decision’ and not ‘award’. The word ‘award’ has been defined both under the Central Act of 1947 and the State Act of 1947 in Section 2(b) and 2(c), but does not finds place under the Act of 1955.

50. Under the Central Industrial Disputes Act when reference is made under Section 10 to a Labour Court or Tribunal, it makes an award.

Similarly, under the State Industrial Disputes Act, when a reference is made under Section 4-k, the Labour Court or the Tribunal, as the case may be, makes an award. However, the scheme of Section 17 of the Act 1955 in sub-section (3) provides for decision of a Labour Court and not an award.

**51.** Thus, no question arises for treating the decision as an award and making publication. The decision rendered by Labour Court is forwarded to State Government which had made the reference for recovery in the manner provided under sub-section (1) of Section 17. Thus, the entire scheme of Section 17 is only for the recovery of money due from an employer and not beyond that. The issue regarding absence of impression “such authority, as State Government may specify in this behalf” in sub-section (2) of Section 17 is a conscious omission has already been dealt with in case of **Pradhan Prabandhank (supra)** and needs no more further adjudication.

**52.** Much emphasis has been placed by Sri Tripathi upon the decision of Apex Court rendered in case of **Ficus Pax (P) Ltd. (supra)**, wherein a challenge was laid to order dated 29.03.2020 issued by Government of India in exercise of power of Section 10(2)(l) of Disaster Management Act, 2005. The Apex Court as an interim measure provided that any settlement entered into between the employers and employees in the establishments which are before them the same was to be acted upon by employers and workers irrespective of order dated 29.03.2020. However, petitioner was not before the Apex Court nor had challenged the order of Central Government. Relevant part of the order of Apex Court is extracted hereasunder:-

*“41. We thus direct the following interim measures which can be availed by all the private establishments, industries, factories and workers trade unions/employees associations, etc. which may be facilitated by the State authorities:*

*41.1. The private establishments, industries, employers who are willing to enter into negotiation and settlement with the workers/employees regarding payment of wages for 50 days or for any other period as applicable in any particular State during which their industrial establishment was closed down due to lockdown, may initiate a process of negotiation with their employees' organisation and enter into a settlement with them and if they are unable to settle by themselves submit a request to the Labour Authorities concerned who are entrusted with the obligation under the different statute to conciliate the dispute between the parties who on receiving such request, may call the employees trade union/workers association/workers concerned to appear on a date for negotiation, conciliation and settlement. In the event a settlement is arrived at, that may be acted upon by the employers and workers irrespective of the Order dated 29-3-2020 issued by the Government of India, Ministry of Home Affairs.*

*41.2. Those employers' establishments, industries, factories which were working during the lockdown period although not to their capacity can also take steps as indicated in Direction 41.1.*

*41.3. The private establishments, industries, factories shall permit the workers/employees to work in their establishment who are willing to work which may be without prejudice to rights of the workers/employees regarding unpaid wages of above 50 days. The private establishments, factories who proceed to take steps as per Directions 41.1 and 41.2 shall publicise and communicate about their such steps to workers and employees for their response/participation. The settlement, if any, as indicated above shall be without prejudice to the rights of employers and employees which is pending adjudication in these writ petitions.*

*41.4. The Central Government, all the States/UTs through their Ministry of Labour shall circulate and publicise this order for the benefit of all private establishments, employers, factories and workers/employees.*

*42. In event, any settlement is entered into between the employers and employees in the establishments which are before us, an affidavit giving details shall be filed by next date of hearing.”*

**53.** Moreover, reliance placed upon various decisions by petitioner is distinguishable in the present set of case and are not applicable.

**54.** Thus, considering the facts and circumstances of this Case, I find that notification dated 12.11.2014 issued by State Government specifying the officers mentioned in Column II to be authorities competent to dispose applications under Section 17 of the Act 1955 has already been upheld by this Court in **Hindustan Media Ventures (supra)**, and the power of

reference to Labour Court having also been upheld in case of **Pradhan Prabandhank (supra)**, no interference is required in the writ petition as far as the challenge having been laid to the notification as well as the reference order.

**55.** Moreover, it was on the writ petition filed by petitioner being Writ Petition No. 659 of 2023, decided on 21.02.2023 by co-ordinate Bench of this Court that the matter was referred by Prescribed Authority to Labour Court. The order was never challenged by petitioner and it became final. No challenge can be made to the reference order after the decision as rendered above.

**56.** The Labour Court had rightly rejected the application questioning the jurisdiction on the ground that the matter had already been settled by decision of the Court dated 21.02.2023 rendered in Writ Petition No. 659 of 2023.

**57.** Further, I find that petitioner has only challenged the decision of Labour Court on technical grounds, such as, competence of reference, power to issue notification and non-publication of the award.

**58.** All the points raised above have already been dealt with by this Court. No challenge has been laid, as to the finding recorded by Labour Court on the decision taken for paying the short variable pay to the various employees of the establishment. Once it is an accepted fact that the employer had paid less wages to the employees, the application made under Section 17 was rightly allowed by Labour Court and sent to authorities mentioned in sub-section (1) of Section 17 for recovery of the amount so quantified.

**59.** In view of said fact, as there is no challenge on merit to the findings recorded by Labour Court for short payment of wages made to the

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employees, the order passed on 10.11.2023 which has been assailed in Writ Petition No. 292 of 2024 warrants no interference by this Court.

**60.** All the writ petitions fail and are hereby dismissed.

**61.** However, no order as to costs.

**Order Date :-** 12.04.2024

V.S.Singh