



2026:AHC:200941

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Reserved : 16/09/2026

Delivered : 24/09/2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 40718 of 2019

Amit Tyagi

.....Petitioner(s)

Versus

State of U.P. and 4 others

.....Respondent(s)

Counsel for Petitioner(s)	: Bhupendra Nath Singh, Man Mohan Singh, Pramendra Pratap Singh
Counsel for Respondent(s)	: C.S.C., Sandeep Pandey, Sudeep Harkauli, Sunil Tripathi

Court No. - 36

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. The petitioner is an employee of respondent-4 Amar Ujala Publication and is working on the post of Senior Sub Editor/Senior Reporter since 01.04.2007.

2. Present case is arising out of implementation of recommendations of Majithia Wage Board (for short "**Wage Board**") and various orders/judgments passed by the Supreme Court in **Abhishek Raja and others vs. Sanjay Gupta**, (2017) 8 SCC 435.

3. In above background, petitioner approached State respondents that a case be referred to Labour Court under Section 17 Recovery of money

due from an employee of Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (for short “**Act of 1955**”). The Deputy Labour Commissioner, Moradabad on basis of application filed by petitioner and in view of delegated powers granted by the Government of U.P., vide a notification dated 12.11.2014 referred the following dispute to Labour Court for adjudication :-

“मै० अमर उजाला पब्लिकेशंस लिमिटेड, दिल्ली रोड, मुरादाबाद का प्रतिष्ठान मजीठिया वेज बोर्ड की सिफारिसों और उपबन्धों के अनुसार श्रेणी पांच में आवर्त है या श्रेणी तीन में? यदि श्रेणी तीन में आवर्त है तो श्रमिक अमित त्यागी पुत्र श्री पुरुषोत्तम त्यागी, सब एडीटर, दिनांक 11.11.2011 से दिनांक – 01.09.2016 तक किस हितलाभ/अनुतोष पाने का अधिकारी है।”

4. Labour Court, U.P. at Bareilly after considering rival submissions rejected the dispute on a ground of maintainability and jurisdiction. For reference, relevant part of Reference is quoted below :-

“प्रतिवादी का यह भी तर्क है कि उनके द्वारा एक प्रार्थना पत्र 25-डी न्यायालय के समक्ष दाखिल किया गया जो क्षेत्राधिकार के संबंध में है जिसका निस्तारण अभी तक नहीं हुआ है एवं जिसका निस्तारण अवार्ड पारित किये जाने से पहले करना न्यायसंगत होगा। धारा-17(2) वर्किंग जर्नलिस्ट अधिनियम 1955 के अंतर्गत राज्य सरकार को औद्योगिक विवाद संदर्भित करने का अधिकार दिया गया है एवं औद्योगिक विवाद अधिनियम 1947 के अंतर्गत औद्योगिक विवाद की परिभाषा निम्नवत है:-2(K) defines an " Industrial Dispute" as meaning any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment' or non-employment or the terms of employment or with the conditions of labour, of any person.

इस प्रकार उपरोक्त परिभाषा से स्पष्ट है कि किसी व्यक्ति द्वारा व्यक्तिगत रूप से उठाया गया विवाद अगर वह सेवा समाप्ति से संबंधित नहीं है तो वह औद्योगिक विवाद का चरित्र ग्रहण नहीं करेगा। जबतक कि उस व्यक्ति के विवाद को किसी श्रमिक यूनियन या श्रमिकों की उचित संख्या द्वारा समर्थित न किया जाये। प्रस्तुत विवाद वादी द्वारा व्यक्तिगत रूप से उठाया गया और किसी श्रमिक यूनियन का समर्थन नहीं है। ऐसी दशा में धारा-17(2) की परिभाषा में प्रस्तुत विवाद औद्योगिक विवाद का चरित्र ग्रहण नहीं करता है। अतः न्यायालय को प्रस्तुत विवाद पर अभिनिर्णय का क्षेत्राधिकार नहीं है, प्रार्थना पत्र तदनुसार निस्तारित किया जाता है। माननीय उच्चतम न्यायालय ने वर्कमैन ऑफ मैसर्स धर्मपाल बनाम मैसर्स धर्मपाल प्रेमचन्द में माननीय उच्चतम न्यायालय द्वारा उपरोक्त तथ्य को स्पष्ट किया गया है।

Re., 1- 1996 AIR 182 Supreme Court, Workman of M/s Dharampal Vs. M/s Dharampal Premchand.

2- 2005(104)FLR (1005)Supreme Court, J.H.Jadhar Vs. M/s Forbes Gokak Ltd.

3- FLR 1993(67)587, Allahabad High Court, M/s Swedeshi Cotton Mills Vs. Prising Officer, Labour Court-III Kanpur.

प्रस्तुत प्रार्थना पत्र के साथ प्रतिवादी द्वारा दिनांक 28-8-18 को उत्तर प्रदेश सरकार की एक अधिसूचना दाखिल की गयी है जिसमें यह उल्लिखित है कि मजीठिया वेजबोर्ड की अनुशंसाओं से उत्पन्न विवादों के प्रतितोष हेतु एक त्रिपक्षीय कमेटी बनाई गयी है जो इस तरह के विवादों को देखेगी। (Notification No. 792/36&1/2012&881(S.T.)/96T.C. Lucknow 28 August 2012)

अतः उपर्युक्त सम्पूर्ण विवेचन एवं पत्रावली पर उपलब्ध साक्ष्यों के आधार पर विवाद वादी द्वारा अनावश्यक रूप से अनुचित व अवैधानिक ढंग से उठाया गया है जिस कारण वादी किसी प्रकार का कोई हितलाभ विधिक एवं गुण-दोष के आधार प्रतिवादी से पाने का अधिकारी नहीं है।”

5. Aforesaid order/award is challenged before this Court by way of present writ petition.

6. Sri Man Mohan Singh, learned counsel for petitioner has submitted that reasons assigned in impugned order are not legally justified. Labour Court ought to have considered the provisions of Section 17(1) of Act of 1955 which permits that a single employee can approach concerned State-respondent for reference of a dispute to Labour Court. It was not mandatory requirement that such dispute can be referred at the instance of Union. The definition of industrial dispute is defined u/s 2(k) of Industrial Disputes Act, 1947 would not be applicable in present case since it is arising out of provision of a different case i.e. Act of 1955. He has placed reliance upon various judgments.

7. Per contra, Sri Shakti Swaroop Nigam, learned Senior Advocate assisted by Sri Sudeep Harkauli, learned counsel for respondent-Publication has submitted that issue whether impugned order has assigned legally unsustainable reasons or not does not require consideration by this Court since Supreme Court in a recent judgment passed in **Sudhir and others vs. Head of Human Resource, Dainik Bhaskar Group and others**, 2026 SCC Online SC 1542 has held that the State Government has no power to delegate power to refer a dispute to

Labour Court to any Authority. It was the sole responsibility of State Government to consider whether or not a dispute arose between employer and employee which requires a Reference to a Labour Court under the provisions of Act of 1955 to be adjudicated in terms of provisions of Act of 1947 as well as learned Senior Advocate has submitted that Act of 1955 is now repealed by Occupational Safety, Health and Working Conditions Code, 2020 w.e.f. 21.11.2025. Learned Senior Advocate has further referred that reasons assigned in impugned order that petitioner will not fall within the definition of working journalist under the Act of 1955 and that he has already given undertaking that he will not claim the benefit of Wage Board.

8. Learned Senior Advocate for respondent-Publication has referred following relevant paragraphs of **Sudhir and others (supra)** :-

“4. Incidentally, in purported exercise of power conferred by Section 17(2) of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (since repealed by the Occupational Safety, Health and Working Conditions Code, 2020 with effect from 21st November, 2025 by way of a notification CG-DL-E-21112025-267884 issued by the Ministry of Labour and Employment), the Industries, Energy and Labour Department, Government of Maharashtra vide notification dated 11th May, 2016 had delegated the power to make reference to the officers named therein (namely the Additional Commissioners of Labour and the Deputy Commissioners of Labour) to the relevant Labour Courts within their jurisdiction.

5. The central question before the High Court (and also before this Court) was, whether Section 17(2) of the Working Journalists Act empowered a State Government to delegate its power to refer a dispute relating to the quantum of dues payable to an employee by his employer to a Labour Court for decision to any other authority.

7. At this stage, it would be apposite to reproduce Section 17 of the Working Journalists Act. It reads as follows:

“17. Recovery of money due from an employer. - (1)
Where any amount is due under this Act to a newspaper employee from an employer, the newspaper employee himself, or any person authorised by him in writing in this behalf, or in the case of the death of the employee, any

member of his family may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the amount due to him, and if the State Government or such authority, as the State Government may specify in this behalf, is satisfied that any amount is so due, it shall issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue.

(2) If any question arises as to the amount due under this Act to a newspaper employee from his employer, the State Government may, on its own motion or upon application made to it, refer the question to any Labour Court constituted by it under the [Industrial Disputes Act, 1947 \(14 of 1947\)](#), or under any corresponding law relating to investigation and settlement of industrial disputes in force in the State and the said Act or law shall have effect in relation to the Labour Court as if the question so referred were a matter referred to the Labour Court for adjudication under that Act or law.

(3) The decision of the Labour Court shall be forwarded by it to the State Government which made the reference and any amount found due by the Labour Court may be recovered in the manner provided in sub-section (1)."

12. For the purpose of our assessment of Section 17(2), it would be relevant to assess the statutory scheme in its entirety.

13. Sub-section (1) of Section 17 contemplates a stage where any sum allegedly due to the employee from the employer is claimed by the former and the latter refuses to acknowledge its liability. If the State Government is moved by the employee seeking recovery of the amount due to him, the State Government has two options. First, the State Government can satisfy itself that any amount is so due; or, in the alternative, the State Government may specify an authority to satisfy itself (read: specified authority) that any amount is so due. Subject to the satisfaction being reached that any amount is due, the State Government or the specified authority, as the case may be, shall issue a certificate for that amount to the Collector, whereupon the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue.

14. What is the course of action to be adopted if the employer disputes the claim on any ground, like quantum or even liability, and refuses to pay? It is here that sub-section (2) of Section 17

comes into play. It ordains that if any question arises as to the amount due under the Working Journalists Act, **the State Government may**, either suo motu or on an application made to it, refer the question to any Labour Court constituted by it under the [Industrial Disputes Act, 1947](#) (since repealed by the [Industrial Relations Code, 2020](#), with effect from 21st November, 2025), or under any corresponding law relating to investigation and settlement of industrial disputes in force in the State.

15. Sub-section (3) of Section 17 deals with the post-decision stage. The Labour Court is required by the law to forward its decision to the State Government which made the reference and recovery of any amount found due by the Labour Court has to be in the manner provided in sub-section (1) of Section 17, i.e., by issuance of a certificate to the Collector for effecting recovery in the same manner land revenue is recovered.

16. Having read Section 17 and its requirements, we need to understand what is unsaid and what is said.

17. First, we would read Section 17(1) as impliedly requiring the State Government or the specified authority to put the employer on notice prior to reaching any satisfaction as to the amount due, since this requirement is absent in the text of sub-section (1) and must be read into the statute to make it meaningful.

18. Secondly, the specified authority under Section 17(1) (being the delegate) is also impliedly required to report to the State Government that no certificate could be issued by him to the Collector because either the sum claimed by the employee is disputed by the employer or the liability to pay is denied.

19. Thirdly, on a comparative study of sub-sections (1) and (2) of Section 17, what draws our immediate attention is the express power conferred on the State Government by the legislature to delegate its function to the specified authority in Section 17(1) and the absence of such power of delegation in Section 17(2). The Latin maxim *unius est exclusio alterius* comes to mind, which means the express mention of one excludes the other. In the context of the statutory provision under consideration, where the legislature has conferred the power of delegation to the State Government for the function required to be performed as required by sub-section (1) of Section 17 but has chosen to remain silent for the follow-up function, as envisaged in sub-section (2) of Section 17, the presumption to be drawn is that the legislature did not intend the power of delegation to be conferred on the State Government for making a reference to the Labour Court under Section 17(2).

20. Significantly, sub-section (2) of Section 17 does not even remotely refer to power to make any reference being delegated to the specified authority.

21. Lastly, sub-section (3) of Section 17 mandates the State Government, which made the reference under Section 17(2), to give effect to the decision of the Labour Court, if it is in favour of the employee, by issuing a certificate for recovery of the amount determined to be due in the same manner as in sub-section (1) of Section 17. **Here too, recognition is attributed to the State Government as having the power to refer and not to the specified authority as in sub-section (1) of Section 17.**

22. On the plain language of Section 17, we have no hesitation to hold that though the power of delegation is available to the State Government under sub-section (1) of Section 17, such power is unavailable under sub-section (2) of Section 17.

23. There is, to our mind, another weighty reason for concluding that delegation of power for making a reference to the Labour Court is not contemplated by sub-section (2) of Section 17.

24. The reason is this. In the field of administrative law, it is well-known that an authority who is conferred power by the Constitution or by a statute can delegate to a subordinate what such authority is empowered to do. As in the present case, express power of delegation is given to the State Government by sub-section (1) of Section 17. Having dealt with the plain language of Section 17, let us now ascertain what the statutory scheme is.

31. We are afraid, these decisions are unable to aid the appellants' case. *Telco Convoy Drivers* (supra) involved a case wherein the appropriate Government refused to refer the dispute of the appellant trade union therein under Section 10(1) of the ID Act and this Court held that the appropriate Government, performing an administrative function, did not have the power to adjudicate the dispute at the stage of referral. The central question before this Court in *Telco* (supra) did not involve any delegation of power to a third party by the appropriate Government under Section 10(1) of the ID Act. Similarly, *C.P. Sarathy* (supra) did not involve any question of delegation of power to a third party by the appropriate Government; rather, the question before this Court in that case was the level of detail required to be expressed on the dispute by the

appropriate Government while making a reference under Section 10(1) of the ID Act. Finally, in *Sidhartha Sarawgi* (supra), certain leases were terminated pursuant to ejectment notices which were signed by the Land Manager of Kolkata Port Trust. Challenging these ejectment notices, the appellants therein argued that such ejectment notices were illegal and could not be issued by the Land Manager. Any steps for ejectment had to be made by the Chairman of the Kolkata Port Trust. Rejecting this contention of the appellants, this Court observed that the ultimate power to terminate leases had been vested in the Chairman by virtue of a resolution passed by the Board of Kolkata Port Trust pursuant to Section 21 of the [Major Port Trusts Act, 1963](#) and that while the Chairman had taken the ultimate decision to terminate the leases in question, the Land Manager had only been authorized to implement the said decision of the Chairman. In the present instance, Section 17(2) contemplates that the ultimate decision to refer the dispute to the Labour Court is taken by the State Government alone. The Notification of the GoM does not merely vest powers of implementation on the specified authorities, rather, it vests the ultimate decision making authority in regard to making a reference to the specified authorities and completely takes away the statutory duty of the State Government under Section 17(2) to refer the dispute. The cases before us do not involve the specified authorities acting as mere implementing agencies of the State Government.

32. We are, thus, of the considered opinion that the GoM fell in grave error in delegating power to the specified authorities to make reference under sub-section (2) of Section 17 to the Labour Court. While we do not approve the decision of the Allahabad High Court in *Pradhan Prabandhak/Unit Head Amar Ujala v. State of Uttar Pradesh* taking a contrary view, we affirm the judgments of the High Court under challenge in these appeals as well as the decision of the Punjab and Haryana High Court at Chandigarh in *Jagran Parkashan Limited v. State of Punjab*.

33. Resting on the aforesaid conclusion, dismissal of the appeals should be the obvious outcome. However, having regard to the lapse of time since the Notification was issued and the developments subsequent thereto, we do not think it to be proper to put the parties back to square one particularly when the Working Journalists Act stands repealed with effect from 21st November, 2025 by the OSH Code, and the question of making new references under Section 17(2) would, thus, not arise in future.”

9. Learned Senior Advocate for respondent-Publication has also submitted that in said judgment, some directions were passed under

Article 142 of Constitution by the Supreme Court and referred following paragraphs :-

“37. Bearing this in mind, we direct that the impugned judgments of the Nagpur and Aurangabad Benches of the High Court shall neither bring about a termination of the proceedings referred to the respective Labour Courts by the relevant specified authority or the proceedings which were dealt with by the High Court, nor shall the proceedings which are pending before the Labour Courts terminate by reason of our judgment.

38. In exercise of the power conferred on this Court by Article 142 of the [Constitution of India](#), we further direct that the GoM in the appropriate department shall revisit all references made to the Labour Courts by the respective specified authorities. Upon an independent exercise being undertaken in each case and uninfluenced by the satisfaction reached by the specified authorities, the GoM shall be under an obligation to record fresh satisfaction that there existed a dispute as to amount due which was worthy of being referred. In those cases where satisfaction is reached, a fresh reference shall be made by the GoM outlining the terms for the same to be decided in accordance with law. The proceedings shall, however, be taken forward from the stage the Labour Courts have reached. If further evidence is required to be led by any of the parties consequent upon the fresh reference, the Labour Court shall offer an opportunity to the party seeking to lead further evidence and likewise, allow the opposite party to lead evidence in defence.

39. Even in those cases where the Labour Courts have passed awards acting in furtherance of references made by the specified authorities and such awards are under challenge before the High Court, the GoM has to certify that it is satisfied that the dispute was rightly referred. In such case, the correctness and/or legality of the awards which are under challenge before any bench of the High Court may be examined on its own merits.

40. Since the cluster of writ petitions referred to in paragraph 3 (supra) read with the relevant footnote, from which the lead appeal arises, has been disposed of by the High Court, the GoM will record its satisfaction in each such case and wherever it is certified that there was a dispute as to amount due which was required to be referred to the Labour Court, the parties in such writ petitions shall be at liberty to approach the High Court with an application for recall of the orders of disposal and for restoration thereof. Once

such approach is made, we have no doubt that the High Court will restore the writ petitions and hear the same on its own merits.

41. In those cases where the GoM reaches a satisfaction that reference should not have been made at all, it shall record accordingly and communicate its decision to the employee concerned. In such a situation, the employee may seek recovery of any amount allegedly due to him through other available process of recovery, with limitation commencing from the date of receipt of the order of the GoM.

42. This judgment shall, however, not permit employers to reopen proceedings already concluded on the basis of references made by the specified authorities in terms of the Notification, if in further proceedings before a higher court the validity of such reference has not been challenged.

43. We make it abundantly clear that merits of the rival claims with regard to any amount due or payable have not been examined and the parties are free to raise all points that are available in law for being decided by the relevant courts.

44. The GoM is directed to implement this order of revisiting references as early as possible but not later than 6 (six) months from the date of its communication to it. Till such time the GoM takes a decision in respect of each dispute and communicates the same to the parties as well as the Labour Court, the proceedings pending either before the Labour Court or before the High Court shall not proceed. Needless to observe, continuance of further proceedings shall be dependent on the decisions taken by the GoM.

45. We also make it clear that if any proceeding before the Labour Court has been closed relying upon the impugned judgments and such closure is not under challenge, the proceedings will be re-opened if the GoM refers the dispute to such Labour Court in terms of this order.

46. On the aforesaid terms, the civil appeals stand disposed of.”

10. In rejoinder, learned counsel for petitioner has not able to deny much about present position of law, however, he has further submitted that petitioner may not be left with remedy-less and this Court may pass orders in the light of **Sudhir and others (supra)** which has already been referred in preceding paragraphs.

11. Heard learned counsel for parties and perused the records.

12. The argument of learned counsel for petitioner that reasons assigned in impugned order are not legally justified has substance since in the impugned order, the Labour Court has only considered the provisions of Act of 1947 without considering real purport of provisions of Act of 1955 that even an individual workman can ask the concerned State Government to refer a dispute to Labour Court, however, as rightly pointed out by learned Senior Advocate for respondents that even such reasons are not justified but now in view of **Sudhir and others (supra)**, once the Supreme Court has held that State has no power to delegate power to refer a dispute by Deputy Labour Commissioner under Act of 1955 and since in present case also, the dispute was referred by Deputy Labour Commissioner, therefore, Reference itself is bad in law, therefore, no proceedings can be initiated on basis of a Reference made in present case as well as that in present case, no further proceedings were initiated after Reference was made since by the impugned order, Reference was declared bad in law though for different reasons.

13. In above background, Court is of view that petitioner cannot be left remedy less and, therefore, takes note of directions passed by Supreme Court in **Sudhir and others (supra)** under Article 142 and specifically directions made in paragraph 44 and 45 which is again quoted below and this writ petition can be disposed of without interfering with impugned order by passing following directions :-

“**44.** The GoM is directed to implement this order of revisiting references as early as possible but not later than 6 (six) months from the date of its communication to it. Till such time the GoM takes a decision in respect of each dispute and communicates the same to the parties as well as the Labour Court, the proceedings pending either before the Labour Court or before the High Court shall not proceed. Needless to observe, continuance of further proceedings shall be dependent on the decisions taken by the GoM.

45. We also make it clear that if any proceeding before the Labour Court has been closed relying upon the impugned judgments and such closure is not under challenge, the proceedings will be re-

opened if the GoM refers the dispute to such Labour Court in terms of this order.”

14. In view of above, this writ petition is **disposed of** with following observations/directions :-

(a) Appropriate Authority under State Government shall take a conscious decision in the light of above referred paragraphs 44 and 45 of **Sudhir and others (supra)** which is also mentioned hereinabove whether or not a Reference be made under provisions of Act of 1955.

(b) While making Reference, State Government can also take note whether or not in given circumstances, recommendations under Wage Board were applicable to petitioner or not that he has already taken benefit or has made a declaration not to take benefits of recommendations of Wage Board as well as whether petitioner would fall under the definition of working journalist, if circumstance so warrant and without being much influenced of the observations made in the impugned order.

(SAURABH SHYAM SHAMSHERY, J.)

September 24, 2026

<Nirmal>