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'SCOPE OF AWARD' UNDER INDUSTRIAL DISPUTE ACT, 1947*

Introduction:

Award means an interim or final determination of any industrial dispute or of any question relation thereto. The determination must be by any Labour Court, Industrial Tribunal, or National Tribunal. It include an arbitration award made under section 10-A[1]. According to section 2 of the Industrial Dispute Act, 1947, definition of award falls in two parts. The first part covers a determination, final or interim, of any industrial dispute. The second part takes in a determination of any question relation to an industrial dispute. But the basic postulate common to both the part of definition is the existence of an industrial dispute, actual or apprehended. The determination contemplated by definition is of the industrial dispute or a question relating thereto on merits. In order to be an award a determination must be an adjudication of a question or point relating to an industrial dispute which has been specified in the order of reference or is incidental thereto and such adjudication must be one merits.[2]Award includes final as well as an interim determination. The tribunal can grant only such interim awards which they are competent to grant at the time of final award, because the relief, which the tribunal has no right to grant at the time of final determination, shall be outside its authority at any stage of the proceedings.

In *Hotel Imperial, New Delhi v. Hotel Workers Union,*[3] workmen of three hotels in New Delhi were suspended on charge of misconduct pending application under section 33. The Tribunal had ordered these workmen to be paid their wages plus Rs. 25/- per month in lieu of food till final decision with regard to their dismissal. On appeal the Supreme Court stayed the order of the Tribunal on the condition that the workmen should be paid a sum equal to half of the amount adjudged payable by the tribunal could not adjudicate upon the question on interim relief because it was not agree with this view because "interim relief, where it is admissible, can be the granted as a matter incidental to the main question without being itself express in plain terms." It was further held that ordinary interim relief should not be the whole relief that the workmen would get if they finally succeeded.

Principles:

- An interim award is not the final determination of some of the points involved in an industrial dispute. It is a provisional or temporary arrangement made in a matter of urgency and subject to a final adjustment on the final determination of a dispute.

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[1] Khan & Khan's, Labour and Industrial Law, Asia Law House, Edition 2002-03.
[2] Cox and Kings (Agents) Ltd. v. Their Workmen, AIR 1977 SC 1666.
[3] AIR 1959 SC 1342.

- Interim relief is granted in aid of the final relief to be granted. If final relief itself cannot be granted any temporary relief of the same nature can be given. While awarding interim relief, the final adjustment to be made at the time of award must be kept in mind.

In giving retrospective effect to the awards the tribunal should take into consideration that the Tribunal had on other occasions, given increase to the workmen, it being immaterial whether the increases were referable to the actual matter of dispute before the Tribunal. As observed by the Supreme Court no retrospective operation can be given to an award for any period to the date on which the demand in question were made.[4] In view of section 17 which says that a tribunal may make its award operative from any date specified in award, a tribunal has jurisdiction to grant an award retrospectively. But an Industrial tribunal cannot by way interim relief direct the employer to reinstate the workman pending the disposals of an application in the section 33A[5].

Voluntary Reference of Dispute to Arbitration[6]:

Where any industrial dispute exist or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be such person or persons including the Presiding Officer of Labour Court or Tribunal or National Tribunal as an arbitration or arbitrators as may be specified in the arbitration agreement. An arbitration agreement referred to in section 10-A (1) shall be in such form and shall be signed by the parties hereto in such manner as may be prescribed. A copy of the arbitration of arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer and the appropriate Government shall, within one month from the date of the receipt of such copy, publish the same in the Official Gazette.

Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may, within the time referred to in section 10-A (3) that is one month, issue and notification is issued, the employers and workmen who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators. The arbitrator or arbitrators shall be investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrators or all the arbitrators, as the case may be.

Where an industrial dispute has been referred to arbitration and a notification has issued under sub section (3-A)of the same, the appropriate Government may, by order, prohibit the continuance of any strike or lockout in connection with such dispute which may be in any in existence on the date of the reference. Noteworthy point is that, nothing in the Arbitration Act, 1940 shall apply to arbitration under this section.

Karnal Leather Karamchari v. Liberty Footwear Company[7], Respondent No. 1 is a registered partnership firm which deals in leather foot wears at Karnal in Haryana and at other places under the name and style of "Liberty Footwear Company". It had an industrial dispute with his workmen; the latters' Union complaining that the management had terminated the services of more than 200 workmen. The management asserted that the persons whose services had been terminated were not its employees at the material time. The dispute having remained unsealed,

[4] *Caltex (India) Ltd. v. Industrial Tribunal no.2 Ernakulam, (1961) II LLJ 85 (Kerala).*
[5] Industrial Dispute Act, 1947
[6] S.N. Mishra, *Labour & Industrial Laws, Central Law Publications*, 25th Edition.
[7] 1990 AIR 247, 1989 SCR (3)1065.

the workmen went on strike as a result whereof the management had to lay off certain workers. The agitation of the workers in front of the factory created a law and order problem and the police had to intervene in the matter. When a dispute is referred for arbitration under an agreement under section 10A, the requirement of publication of agreement under sub-section (3) of section 10-A is mandatory before the arbitrator consider the merits of the dispute. Non-compliance of the requirement of publication would render the award invalid and unenforceable.

Form of Report or Award[8]:

The section 16 of Industrial Dispute Act provides for procedure that, the report of board or Court shall be in writing and shall be signed by all the members of the Board or Court, as the case may be, to be followed. The award of a Labour Court or Tribunal or National Tribunal shall be in writing and shall be signed by its Presiding Officer.

S.M. Mujeeb vs Labour Court, Anantapur and Another[9], The petitioner was a Conductor in A.P.S.R.T.C. while he was conducting bus on 20th September 1980 a check was exercised and it was found that the petitioner having collected the fare from 5 passengers failed to issue tickets to the passengers who were travelling from V. Kota to Vogu. It was also alleged that the petitioner having collected the fare of 75 paise each failed to issue tickets to three passengers travelling from V. Kota to Rekhamanu. It is the case of the petitioner that there was no irregularity in issuing tickets; that the T.T.Is. having found no irregularity, demanded illegal gratification from him; that he expressed his inability to pay any amount as he was conducting the bus as per Rules and that the T.T.Is framed charges falsely. The petitioner was removed from service after conducting departmental enquiry. Later the matter was referred to the Labour Court, Anantapur for adjudication. Sri V. Veeraraghavan was the Presiding Officer of the Tribunal during the relevant time, who heard the matter, and the award was not signed by him; that the award was signed by Sri Vengal Reddy, who was the successor. It was held that award is illegal and vitiated. This is a material irregularity.

Publication of the Report and Award[10]:

The section 17 of the act mentions about publication procedure of the award decided after the due course. The clause (1) of the section states: Every report of Board or Court together with any minute of dissent recorded therewith, every arbitration and every award of a Labour Court, Tribunal or National Tribunal shall within a period of thirty days from the date of its receipt by the appropriate Government, be published in such manner as the appropriate Government thinks fit. The second clause of the same section provides for immunity against any legal proceedings, thus avoiding any further delay, to the award finalised.

Commencement of the Award:

Commencement of award is described under section 17-A of the act. It goes as follows:

An award (including an arbitration award) shall become enforceable on the expiry of the thirty days from the date of its publication under section 17. But if the Central Government is of opinion, in any case where the award has been given by National Tribunal will be inexpedient on public grounds affecting economy or social justice to give effect to the whole or any part of the award the appropriate Government, or as the case may be, the Central Government may, by

[8] Khan & Khan's, *Labour & Industrial Law, Asia Law House*, 5th Edition 2002-03.
[9] 1991 (61) FLR 573, (1990) IILLJ 535 AP. S.N. Mishra, *Labour and Industrial Laws, Central Law Publication*, 26th edt, p. 171.
[10] Supra 6.

notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said of thirty days:

Where any declaration has been made in relation to an award under the proviso to sub section (1), the appropriate Government may, within ninety days from the date of publication of the award under sec. 17, make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together, with a copy of the order before legislature of the state, if the order has been made by the Central Government.

Where any award as rejected or modified by an order made under sub section (2) is laid before the Legislation of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid: and where no order under sub section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in sub section (2).

M/S Sangham Tape Company vs. Hans Raj [11] , The Respondent was appointed as a Machineman by the Appellant in 1980. The Appellant contended that the Respondent had been absenting from duties off and on but he had been allowed to join his duties in different periods. On or about 09.11.1991, a complaint petition was filed by him through the trade union before the Labour Inspector Circle III Jalandhar on an allegation that the management had not provided him and other similarly situated person's duties since 8.11.1991. The said complaint was registered wherein a settlement was arrived at, pursuant whereto or in furtherance whereof the Respondent is said to have received a sum of Rs. 2675.70 in full and final settlement of his dues. Despite the said settlement, on or about 17.11.1992, he allegedly filed a reference petition before the Labour Court, Jalandhar, claiming his reinstatement with full back-wages, continuity of service and all consequential service benefits. An ex parte award was passed by the Labour Court on Feb. 1996. The respondent filed a writ petition before H.C challenging the setting aside of the award as the Labour Court. In view of the provision of sec. 11, and 17A of Industrial Dispute Act, the Labour Court or Tribunal has jurisdiction to set aside the ex parte award if application therefor id made within 30 days from publication of award but not thereafter.. The H.C. set aside the order of the Labour Court and hence the employer preferred an appeal before the S.C. Dismissing the appeal S.C. referring the sections 11 and 17A of ID Act, 1947 observed that once an award became enforceable in terms of sec. 17A, the Labour Court or the Tribunal did not retain any jurisdiction in relation to setting aside of the award, it become enforceable and the Labour Court would thereafter become functus officio.

India General Navigation vs. Their Workmen[12], It was a contradiction in terms to say that a strike in a public utility service, which was clearly illegal, could also be justified. The law does not contemplate such a position nor is it warranted by any distinction made by the Industrial Disputes Act, 1947. It should be clearly understood by workmen who participate in such a strike that they cannot escape their liability for such participation and any tendency to condone such a strike must be deprecated.

The only question of practical importance, that arises in such a strike is, what should be the kind and quantum of the punishment to be meted out to the participants and that question has to be decided on the charge-sheet served on each individual workman and modulated accordingly. In determining the question of punishment, distinction has to be made between those who merely participated in such a strike and those who were guilty of obstructing others or violent demonstrations or defiance of law, for a wholesale dismissal of all the workmen must be detrimental to the industry itself. If the employer, before dismissing a workman, gives him

[11] (2004) III L.L.J. 1141 (S.C.).
[12] 1960 AIR 219

Sufficient opportunity of explaining his conduct, and no question of mala fides or victimisation arises, it is not for the Tribunal, in adjudicating the propriety of such dismissal, to look into the sufficiency or otherwise of the evidence led before the enquiring officer or insist on the same degree of proof as is required in a Court of Law, as if it was sitting in appeal over the decision of the employer. In such a case it is the duty of the Tribunal to uphold the order of dismissal.

Consequently, in the present case, where the appellants, who were carrying on business in water transport service, notified as a public utility service, dismissed their workmen for joining an illegal strike, on enquiry but without serving a charge-sheet on each individual workman and the Industrial Tribunal directed their reinstatement, excluding only those who had been convicted under s. 143 of the Indian Penal Code but including those convicted under s. 188 of the Code, with full back wages and allowances,-

Held, that the decision of the Tribunal to reinstate those who had been convicted under s. 188 of the' Code must be set aside and the wages and allowances allowed to those reinstated must be reduced by half and the award modified accordingly.

Held, further, that the Industrial Disputes Act, 1947, Must be read as subject to the paramount law of the land, namely, the Constitution, and the finality attaching to an award under ss. 17 and 17A of the Act, must, therefore, yield to the overriding powers of this Court under Art.136 of the Constitution. As the award in the instant case did not fall within the Provisos to s. 17 of the Act, it was not correct to contend that the appellants had any other remedies thereunder to exhaust before they could come up in appeal to this Court. Nor was it correct to contend that the Government of Assam was a necessary party in the appeal inasmuch as it had acted by virtue of delegated powers of legislation under the Act in making the award enforceable as law. A State Government plays no part in such a proceeding except to make the reference under s. 10 of the Act, nor has it anything to do with regard to the publication of the award, which is automatic under s. 17 of the Act, or its operation, unless the case falls within the provisos to s. 17A of the Act. A lock-out lawfully declared under S. 24(3) of the Act, does not cease to be legal by its continuance beyond the strike, although such continuance may be unjustified.

Agra Tin Manufacturing Co. v. Authority[13], An award was made directing restatement with continuity of services and payment of half wages for the period workmen had remain unemployed an appeal was made by the employer. By an interim order to implementation of the award was stayed but late on the appeal was dismissed directing payment of full wages from the due date of implementation of such award up to the date actual reinstatement. Such an order was held to be correct because an order in appeal from such award cannot affect or postpone accrual of rights on the date of such award. In such cases it is reasonable confine the period for compensation to that which the conciliation Board passing the award had actually considered. The rights during the further period the workmen remain unemployed because the employer appeals against the award and obtains an interim stay can only be dealt with by the Appellate Tribunal. In cannot be said that the workmen remained unemployed till the actual date of reinstatement and the stay order only postponed the date on which the award was to become effective, and, therefore, the workmen were entitled only to half wages between those dates.

Payment of full wages to workmen pending proceeding before High Court[14]:

For protecting the interest of workmen as they are not capable of sustaining themselves without their job due to livelihood being entirely dependent on daily wage they earn, section 17-B of the act provides for: Where in any case, Labour Court, Tribunal or National Tribunal by its

[13] (1970) Lab IC 918 (ALL).
[14] Supra 7.

award directs reinstatement of any workman and the employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such workman, during the period of pendency of such proceeding in High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that the effect in such Court; Provided that, where it is proved to the satisfaction of the High Court, or the Supreme Court that such workman had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be.

Bharat Singh v. Management of New Delhi[15], The appellant joined the Management of New Delhi Tuberculosis Centre, Jawaharlal Nehru Marg, and New Delhi, as a Peon against a permanent regular post. He was thereafter promoted as a Daftry. By a Memorandum dated September 13, 1975, the Management informed the appellant that his services were not required with effect from September 13, 1975 afternoon and his services were thus terminated. He was paid one month's salary in lieu of notice. The appellant kept quiet for three years, obviously because the Management Hospital, as per the law as it then stood, was not an industry. It was in the year 1978, that this Court gave the Judgment in Bangalore Water Supply case. Subsequent to that the appellant raised an industrial dispute, that the termination of the services of the appellant was wrongful and illegal and that he was entitled to be reinstated with continuity of service. The workmen would be to defeat its object and therefore this sec. applies to awards passed prior to the coming into force of this section if they have not become final. This section does not say that it would bind awards passed before the date when it came into force. This section was intended to benefit the workmen in certain cases. It would be doing injustice the section to say it would not apply to awards passed just a day or two before the section came into force.

Persons bound by the Award and settlement[16]:

Following are the person bound by any award decided, under section 18:

(1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.
(2) Subject to the provisions of sub section (3), an arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.
(3) A settlement arrived at in the course of conciliation proceedings under this Act or arbitration award in a case where a notification has been issued under sub section (3-A) of section 10-A or an award of a Labour Court, Tribunal or National Tribuanl which has become enforceable shall be binding on—
(a) All parties to the industrial dispute;
(b) All other parties summoned to appear in the proceedings as parties to the dispute, unless the Board arbitrator Labour Court, Tribunal or National Tribunal, as the case may be, records the opinion that they were so summoned without proper cause.
(c) Where a party referred to in clause (a) or clause (b) is an employer his heirs, successors or assigns in respect of the establishment to which the dispute relates.
(d) Where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the

[15] 1986 AIR 842, 1986 SCR (2) 169.
[16] Supra 6.

case may be, which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

Premier Automobiles Ltd v. Kamlekar Shantaram Wadke[17], The Industrial Disputes Act was enacted to make provision for the investigation and settlement of the industrial disputes. The Act envisages collective bargaining, contracts between the workers' unions and management and the like which are matters outside the realm of the common law or the law of contracts. The Act defines an industrial dispute and what the term "settlement" means. Different authorities have been created at different levels for settlement and adjudication of industrial disputes, conferring on them varied and extensive powers. Where a dispute between the workers and management cannot be resolved by the conciliation procedure envisaged under the Act, the dispute is referred by the Government to a Labour Court or a Tribunal, the award of which becomes final and cannot be called in question by any court in any manner whatsoever. Under s. 18(1) a settlement arrived at by agreement between the employer and workmen, otherwise than in the course of conciliation proceeding, shall be binding on the parties to the agreement.

In one of the departments of the appellant there were three groups of workers: One, the workers' union which was earlier recognised as a "trade union, and was derecognised by the appellant, and secondly another union which was recognised in its place and thirdly workmen who were members of neither union. As a result of a settlement entered into with the derecognised union an incentive scheme was in force in this department of the appellant. After the de-recognition of the union because of the increase in the strength of the workmen it became necessary for the company to revise the target figures of the incentive scheme. The company, therefore, entered into a settlement with the union recognised later. This led to protests from the derecognised union. Respondents 1 and 2, who were members of the derecognised union, instituted a suit in the Civil Court under O. I r. 8 of the Code of Civil Procedure in a representative capacity alleging that the earlier settlement was a contract of service and that the new settlement would bring about a change in their service conditions, that the new settlement was arrived at without following the mandatory requirements of s. 9A of the Act and have prayed for a permanent injunction to restrain the appellant from implementing the later settlement. During the trial the plaintiffs stated that they did not wish to enforce the first agreement as it would not be binding upon the workmen who were the members of the derecognised union. This led to dropping the issue relating to non-compliance with s. 9A of the Act also.

The trial court held that it had jurisdiction to try the suit as it was a suit of a civil nature for enforcement of rights of common and general law and consequently there was no question of reliefs being claimed under the Industrial Disputes Act. Treating the incentive payments made during the years when the first agreement was in force as implied terms of conditions of service and trial court granted a conditional decree of injunction. On appeal, the High Court upheld the view of the trial court. On further appeal to this Court it was contended by the respondents that the remedy provided under the Industrial Disputes Act was a misnomer in that reference of an industrial dispute for adjudication to a tribunal would depend upon the exercise of the power by the Government under s. 10(1) of the Industrial Disputes Act. The Act did not confer any right on the suitor. Court allowed the appeal.

Workmen Through Hindustan Lever Mazdoor Sabha v. Hindustan Lever Ltd[18], A dispute relating to dearness allowance was pending and settlement was arrived between the parties. The employees opted for voluntary retirement scheme and subsequently the unit was closed. Pending dispute was not included in the settlement. On erroneous appreciation the H.C. held all

[17] 1975 AIR 2238

[18] 2008 III L.L.J. 360 (S.C.).

pending disputes settled on workmen opting for voluntary retirement scheme closure of unit. The SC in appeal set aside the order of HC and held that the mere fact that the unit was closed or that all workmen entered into settlement and had taken voluntary retirement will not put an end to validity pending dispute in regard to a past grievance unless the employer is able to show that such grievance was also included in the settlement and was settled.

The possibility of an adverse decision by the court operates as a positive force in favour of deliberate and careful efforts by both parties to settle their dispute through direct negotiation. Where the workmen are represented by a recognised union, the settlement may be arrived at between the employer and the union. If there is a recognised union of the workmen and the constitution of the union provides that any of its office bearers can enter into settlement with the management on behalf of the union and its members, a settlement may be arrived at between the employer and such office bearer. But where the constitution does not so provide specially the office bearer who wishes to enter into a settlement with the employer should have the necessary authorisation by executive committee of the union or by the workmen.

M.D. Hindustan Fasteners v. Nashik Workers Union[19], Appellant herein is engaged in engineering activities. Appellant was a sick unit as envisaged under the Sick Industrial Company (Special Provision) Act, 1985. A settlement was arrived at on 1990 by and between the parties hereto in regard to the demands raised on behalf of the workmen. The period covered by the settlement was 1989 to 1992. The workmen thereafter went on strike. Several demands were also raised a dispute regarding wages due for a period of lock-out between January 1992 and June, 1993. It was referred to the Industrial Tribunal. Appellant management contended that the dispute could not arise in view of settlement arrived in between the parties. Appellant failed in its contention before the Tribunal. Dismissing the appeal the S.C. observed that a settlement is aimed at maintenance of industrial peace and harmony. A settlement though is required to be read in its entirety so as to ascertain the intention of the parties. A charter of demands referred to in the settlement did not relate to wages of the workmen during the period of lock-out. The parties made it clear that the claim for the wages on the premise that the lock-out was illegal and was not the subject matter of settlement.

Naresh Kumar Bansal v. G.S. Karla and another[20], a dispute relating to the termination of Cashier-cum-Godown keeper was referred for adjudication. The claim of the workman was rejecting by the tribunal on the ground of settlement between union and management under sec. 18(1). It was held that since the workman was neither a member of the union nor he had authorised the union to represent his case nor was a party to the settlement, therefore, the settlement was not binding on him. In order that a settlement between the employer and the workmen may be binding on them, it has to be arrived at by agreement between the workmen and the employer. Where the workmen are represented by a recognised union, the settlement may be arrived at between the employer and the union. If there is a recognized union and the constitution of the union provides that any of its office-bearer can enter into a settlement with the management, a settlement may be arrived at between the employer and such office-bearers. But the constitution does not so provide specifically, the office-bearers should have the necessary authorisation by the executive committee of the union or by the workmen.

Period of operation of settlement and Award[21]:

The section 19 speaks about the period for which settlement and award will be binding upon the parties to the concerned industrial dispute. A settlement shall come into operation on such date as is agreed upon by the parties to the dispute, and if no date is agreed upon, on the date

[19] 2007 I L.L.J. 434 (S.C.).
[20] (1993) II Lab LJ 377 (Delhi).
[21] Supra 6.

on which the memorandum of the settlement is signed by the parties to the dispute. Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months from the date on which the memorandum of settlement is signed by the parties to the dispute, and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expire two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

An award shall, subject to the provisions of this section, remain in operation for a period of one year from the date on which the award becomes enforceable under section 17-A. Provided that the appropriate Government may reduce the said period and fix such period as it thinks fit. The relevant case on the point is:

The Associated Cement Companies vs. Their Workmen[22], The appellant's workmen were represented by a Union called Kamdar Mandal Cement Works, Porbandar. The registration of the said union was cancelled and that led to the formation of two Unions, the Cement Kamdar Mandal and Cement Employees Union. The Cement Kamdar Mandal gave two notices one after another to the appellant, purporting to terminate two previous awards, wherein the defunct union represented the workmen. Thereafter the Mandal presented fresh demands and the dispute was referred to the Tribunal. The second union, the Cement Employees' Union which represented the majority of the appellant's workmen at Porbandar had been impleaded in the proceedings. The appellant raised preliminary objections before the Tribunal against the competency of the reference inter alia on the ground that the award in question by which the parties were bound had not been duly terminated under s. 19(6) of the Act in as much as the union which purported to terminate the said award represented only a minority of workmen bound by it. The Tribunal by its interlocutory judgment found against the appellant. The dispute between the parties centres round the question as to who can issue the notice terminating the award on behalf of workmen who are bound by the award as a result of s. 18 of the Act. The question therefore for decision is whether a registered trade union representing a minority of workmen governed by an award can give notice to the other party intimating its intention to terminate the award under s. 19(6) of the Industrial Disputes Act, 1947. Held, that the effect of s. 18 is that an award properly made by an industrial tribunal governs the employer and all those who represent him under s. 18(c) and the employees who are parties to the dispute and all those who are included in s. 18(b) and (d). On a fair and reasonable reading of s. 19(6), the true position is that, though the expression “any party bound by the award” refers to all workmen bound by the award, notice to terminate the said award can be given not by an individual workman but by a group of workmen acting collectively either through their union or otherwise, and it is not necessary that such a group of workmen acting collectively either through their union or otherwise, should represent the majority of workmen bound by the award. Thus it is open to a minority of workmen or a minority union to terminate the award by which they, along with other employees, are bound just as much as it is open to them to raise an industrial dispute under the Act.

I.L.C. Manufacturers v. Workmen[23], An agreement is for a fixed period it will not only continue to be binding for the duration of the period of settlement but thereafter also until it is terminated by a notice in writing and even then it will continue for a period of two months from the date of each notice. It is no doubt true that the notice must be in writing but it can be inferred from correspondence between the parties and there cannot be any waiver by conduct or implication of the requirement of written notice. The award or settlement, under the ID Act replace the earlier contract of service and is given plenary effect as between the parties. Earlier

[22] 1960 AIR 777
[23] AIR 1972 SC 343.

contract is not suspended but it is superseded. Once the earlier contract is extinguished and fresh conditions of service are created by the award or the settlement, the inevitable consequence is that even though the period of operation and the span of binding force expires, on the notice to terminate the contract being given, contract continues to govern the relations between the parties until a new agreement by way of settlement or statutory contract by the force of an award takes place.

Bank of India v. Presiding Officer and others[24], The SC made a clarification on a question of law whether the Sastri award and Desai award continued in force even after the expire of the period stated in section 19(3) of the Industrial Dispute Act, until parties intimate their intention. It was held that under the provisions of section 19(6) of the ID Act, 1947 an award shall continue to be binding on parties even after the period stated under section 19(3) expires. An award does not cease to be in force or cease to be binding on the parties in view of provisions of section 19(6) of the ID Act,1947 until the parties intimate to each other about their intention to do so.

Termination of the Award[25]:

Shukla Manseta Industrial v. The Workmen[26], It was held there is no legal war to give advance intimation about the intention to terminate the settlement on the expire of the period and to start negotiation for a more favourable settlement immediately thereafter. The only condition that has to be fulfil by such a notice is that the period of two months from the date of notice must end on the expire of the settlement and not before it. A settlement under section 19(2) and an award under section 19(6) cannot be given the same meaning. Even if an advance notice is given in the case, such a notice would be infructuous and inoperative under the law. The extension of the award by the government of an award permitted by law and Government in exercising exercise of a statutory power would prevail upon the action of the party to terminate the award by notice. The intention to termination the award with the reference to a particular date to must be established by the parties who set up a case of termination. An industrial dispute may be raised by a group of workmen and if the dispute is referred to the tribunal and an award is given, it binds according the sec. 18 all persons who were employed in the establishment or who would be employed in future, irrespective of the fact that they were a party to the dispute. The expression any party bound by the award used in sec. 19(6), in view of the SC, refers to and includes all persons bound by the award under sec. 18. Mere serving of charter of demands by a trade union on employer does not by itself show that the union has terminated previous award. Neither the fact of workers going on strike subsequently nor the fact of employer's participation in conciliation proceeding is of any relevance.

Enforcement of an Award[27]:

An award may be enforced of the following ways:

1. The aggrieved party may apply to Appropriate Government for prosecuting the defaulting party under section 29 or section 31 of this Act.
2. Where any money is payable by the employer to a workman, the workman may move the Appropriate Government for recovery of the money due to him under award.
3. The party in whose favour the award has been granted may file a suit and obtain a decree, which shall be enforced by execution under the provisions of the Civil Procedure Code.

[24] (2002) I L.L.J. 232 (S.C.).
[25] S.N. Mishra, *Llabour and Industrial Laws, Central Law Publications*, 25th edt
[26] AIR 1977 SC 2246.
[27] Supra 6.