(19) As a result of the foregoing dscussion, I am of the considered view that rules 6 and 7 of the Rules are constitutionally valid and there is no merit in this appeal which is accordingly dismissed with no order as to costs.

R. S. Narula, Chief Justice.—I agree.

B.S.G.

Before Muni Lal Verma, J.

THE DAILY MILAP, JULLUNDUR—*Petitioner.*

versus

THE GOVERNMENT OF PUNJAB ETC., *Respondents.*

Civil Writ No. 1295 of 1974.

April 29, 1975.

Industrial Disputes Act (XIV of 1947)—Sections 2(k), 10(1)(d) and 12—Scope of—Stated—The Working Journalists (Conditions of Service) and Miscellaneous Provisions Act (XLV of 1955)—Sections 3, 12 and 13—Dispute regarding increase in wages of working journalists and other newspaper employees—Whether can be adjudicated under the Industrial Disputes Act.

Held, that the definition of "industrial dispute" as given in section 2(k) of the Industrial Disputes Act, 1947 has to be understood from the scope and context of the whole Act. This term means a dispute between the workmen and employers on some general questions on which each group is bound together by a community of interest. The expressions "terms of employment" and "Conditions of labour" occurring in the definition are wide enough to include the dispute relating to the increase in the wages. The word 'difference' occurring in clause (k) of section 2 of the Act and the word 'apprehended' appearing in the opening part of sub-section (1) of section 10 of the Act connote that that it is not only an 'existing dispute' but also an 'apprehended industrial dispute' which can be referred for adjudication. Clause (d) of sub-section (1) of section 10 of the Act widens the discretion of the Government so as to refer even any matter which appears to it to be connected with, or relevant to, the dispute. The words "at any time" preceded by the word "may" in sub-section (1) of section 10 of the Act indicate the intention of Legislature that the Government has discretion to refer a dispute

or even any matter which appears to be connected with it or relevant thereto at any time when it is of opinion that an industrial dispute is existing or is apprehended. The words 'at any time' further indicate that the Government may make reference of a dispute even though the conciliation proceeings have not been commenced. The provisions of sub-section (1) of section 10 of the Act are not controlled by the provisions of sub-section (4) or (5) of section 12 of the Act. The only limitation indicated by sub-section (5) of section 12 of the Act is that if the Government decides not to make reference for industrial adjudication when the dispute has been investigated by the Conciliation Officer and the latter has submitted a failure report, it (Government) has to record and indicate to the parties as well the reasons therefor. The conciliation proceedings or the report of the Conciliation Officer is not a condition precedent to the Government for exercising its power to make a reference under section 10(1) of the Act.

(Para 13)

Held, that the working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 regulates the conditions of service of working Journalists and other employees of Newspapers, besides providing for many matters governing the service conditions of the journalists and the other newspaper employees, and the provisions of Industrial Disputes Act have been made applicable with slight modifications by section 3 of the Working Journalists Act. The Working Journalists Act read with the Industrial Disputes Act, provides a complete code to regulate conditions of service of working journalists, non-working journalists and other workmen. When the provisions of the Industrial Disputes Act have been made applicable, there can be no room for doubt that the provisions of this Act are ancillary and can be used for the decisions of rights and disputes of the working journalists, non-working journalists and other newspaper employees. The Working Journalists Act would be deemed to include the provisions of the Industrial Disputes Act by virtue of section 3. No doubt, under the provisions of Working Journalists Act the Central Government would as and when necessary constitute a Wage Board for fixing wages of Working Journalists and the decision of the Wage Board when approved by the Central Government with or without modification will be binding on the employers to pay wages at the rate which shall in no case be less than the rate of the wages specified in the order of the Central Government. The provisions of sections 12 and 13 when read with the other provisions of Working Journalists Act would show that the said Act has made provision for minimum wages for a working journalist. There is, however, nothing in the Working Journalists Act

to show that the working journalists have no right to agitate the question of increase in their wages by raising an industrial dispute in regard thereto. The Working Journalists Act does not contain any provisions which expressly or by necessary intendment excludes the application of the Industrial Disputes Act, especially the matters which are not expressly provided by that Act. The Working Journalists Act does not provide a remedy when the working journalists, non-working journalists, or other workmen raise a dispute regarding the increase in their wages over and above the rate of wages decided by the Central Government on the rcommendation of the Wage Board. Therefore, the dispute regarding the increase in their wages of working journalists and other newspaper employees can be referred by the State Government for adjudication under the provisions of Industrial Disputes Act.

Petition under Articles 226 *and* 227 *of the Constitution of India praying that* :

(a) *issue a Writ of* Certiorari *or any other appropriate writ, direction or order in the nature thereof calling for the records relating to the order of reference passed by the Respondent No.* 1 *in purported exercise of powers under Section* 10(1) (d) *of the Industrial Disputes Act,* 1947 *and the records relating to Reference No.* 20 *of* 1973 *on the file of the Industrial Tribunal, Punjab, Chandigarh, in pursuance of or consequence thereof and after going into the legality and validity thereof to quash the same and the entire proceedings in Reference No.* 20 *of* 1973;

(b) *issue a writ of Prohibition or any other appropriate writ, direction or order in the nature thereof, restraining and prohibiting the Industrial Tribunal, Punjab, Chandigarh, from entertaining or adjudicating upon Reference No.* 20 *of* 1973;

(c) *issue any other appropriate writ, direction or order as in the circumstances and on facts of the case be deemed necessary;* and

(d) *pass such other and further orders as may be deemed fit and proper.*

AND the petitioners shall, as in duty bound ever pray.

O. P. Malhotra, Senior Advocate, O. C. Mathur, C. R. Gulati and Ashok Bhan, Advocates, with him, *for the petitioner.*

S. K. Jain, Advocate, *for the State of Punjab.*

M. K. Ramamurthy, Advocate, Romesh Pathak, and B. S. Khoji, Advocates with him, *for the Respondents.*

JUDGMENT

VERMA, J.—(1) The material facts that led to the filing of this writ petition as well as Civil Writ Petition Nos. 1296, 1297, 1298, 1299, 1449, 1300, 1715, 1716 and 1717 of 1974, may be briefly stated thus:

(2) There are establishments of newspapers and printing presses at Jullundur (hereinafter called the establishments/managements) and there are two Unions of the employees which were registered under the Trade Unions Act, 1925. One of the said Unions is known as the Punjab Working Journalists Union, Jullundur (hereinafter referred to as Union No. 1) and working journalists are its members. The other Union, to be hereinafter referred to as Union No. 2, is named as Non-Working Journalists Union. Any workman who is working in a newspaper press or in any printing press establishment, i.e., non-working journalist, is eligible to be a member of Union No. 2. A considerable number of the employees working in the establishments of newspaper and printing presses at Jullundur are members of one or the other of the two aforesaid Unions. In the elections of its office bearers, Shri Inderjit Sood was elected as President and Shri Baljit Singh Pannu as General Secretary of Union No. 1, and membership of this Union extended to 300 workmen, out of which 148 were the working journalists from the different newspaper establishments of Jullundur. Shri Surjit Singh and Shri Ram Labhaya had been elected as President and General Secretary, respectively, of Union No. 2.

(3) On account of the price hike, the workmen working in the aforesaid establishments of newspapers as well as Printing Presses, i.e., working journalists as well as non-working journalists, felt the pinch and began to demand increase in their wages in addition to the medical and other relief from their respective employers. At a meeting of the Executive Committee of Union No. 1 held on June 14, 1972, a Committee (hereinafter called the Committee) headed by Shri Inderjit Sood had been constituted for collecting the necessary data and to take up the matter relating to *ad hoc* relief respecting increase in wages, and to negotiate in that regard with the establishments. Shri Inderjit Sood was further authorised to contact Union No. 2 for forming a permanent Co-ordination Committee of both

the Unions for making joint effort to obtain the *ad hoc* relief. Consequently, on July 3, 1972, letters were addressed to all the establishments giving indication about the resolution of Union No. 1 passed on June 14, 1972, making a demand for *ad hoc* relief in view of the price rise in the essential commodities with a request for a meeting for discussion over the matter. The said letters were replied by a few managements, who though accepted the request for a meeting yet put off the said meeting for varying reasons. Therefore, on or before July 14, 1972, the Committee met the representatives of the establishments and every one replied that the final reply would be given after consulting the other establishments.

(4) In the month of June, 1972, Union No. 1 had submitted a memorandum to Shri Hans Raj Sharma, Labour Minister, Punjab, with regard to demand for increase in wages. On August 18, 1972, a deputation of the Indian Federation of Working Journalists had met the Prime Minister and submitted a memorandum containing demand for *ad hoc* relief to the extent of 25 per cent of the wages. It was on September 15, 1972, that the Co-ordination Committee of both the Unions had been formed. Again, letters were sent to the establishments by the said Co-ordination Committee asking for time when the problem with regard to the *ad hoc* relief could be amicably solved. The aforesaid letters were not responded to by the managements. Again, similar letters were addressed to the establishments on October 5, 1972, and its copies were sent to the Labour Minister, Labour Commissioner, Punjab, and Labour-cum-Conciliation Officer, Jullundur, indicating that requests for time and for a meeting to solve the aforesaid problem had not been responded to by the managements and that the aforesaid issue of *ad hoc* relief could be settled across the table. It was indicated in the said letters to the managements that if no reply was received within 10 days, it would be presumed that they were not interested in settling the issue by negotiations and the workmen would then be free to take any action as the situation and circumstances would demand. On October 2, 1972, a joint convention of both the Unions was held in the town hall at Jullundur and it was addressed by the Labour Minister, Punjab. An assurance was given by the workmen to the Labour Minister that they would not be taking any drastic step unless the situation went out of control. After the conclusion of the function, about 400 journalists marched in procession in the city demonstrating their demands, including 25 per cent *ad hoc* increase in their wages. Since response from the establishments was lacking,

Shri Inderjit Sood addressed a letter on October 19, 1972, to the Labour Minister, pointing out the same to him and requesting him to take personal interest in the matter with a view to avoid agitational approach by the workmen.

(5) On receipt of letter dated October 5, 1972, from the Co-ordination Committee, Labour-cum-Conciliaion Officer, Jullundur, issued notices to the workmen and to the managements to appear before him on October 27, 1972. No management entered appearance before him on that day. So, nothing fruitful came out from the said attempt of the Labour-cum-Conciliation Officer. The workmen of different establishments, therefore, made silent protests by wearing black badges bearing in writing the demand for 25 per cent of wages as *ad-hoc* relief, from 1st to 4th November, 1972. They also started chain fast from 7th November, 1972. Formal notices of demand for 25 per cent *ad hoc* increase in the wages were again sent to the managements. On 15th November, 1972, a letter was addressed to the Chief Minister, Punjab, stating that the situation had become grave and indefinite strike would be inevitable. Thereafter, a joint meeting of the workmen and managements was held on 21st November, 1972 at Circuit House, Jullundur. The said meeting continued till labout 7.30 p.m., but no settlement could be arrived at. In that situation ,the workmen decided to resort to strike and in consequence of that decision they went on strike which continued till 9th of January, 1973.

(6) During the strike period several attempts had been made to terminate the same. Meetings of the representatives of the managements and of the Unions had been convened and held but nothing useful came out of these attempts. The last meeting was held on 8th January, 1973. When it could not bear any fruit the Labour Minister announced that the entire dispute would be referred for decision to the Industrial Tribunal (hereinafter called the Tribunal) and advised the workmen to join duties which they did with effect from 9th January, 1973.

(7) On 10th January, 1973, the Governor of Punjab, in exercise of the powers available under clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act (hereinafter referred to as the Act) referred the following two matters in thirteen cases, which included seven newspaper establishments and six printing presses for adjudication to the Tribunal :—

(1) Whether the Working Journalists, non-working Journalists and other workmen are entitled for any increase in their wages ? If so, from which date and with what details ?

(2) Whether the working Journalists, Non-working Journalists and other workmen are entitled for wages for strike period ? If so, with what details ?

(8) The Establishments and workmen tendered their pleadings before the Tribunal. The Establishments raised several objections. including that the references of the disputes made to the Tribunal were illegal and had been made without jurisdiction. Hence, the Tribunal settled the following preliminary issue:—

"Whether the reference in question is illegal and without jurisdiction for the reasons stated in paras 1 to 10 of the written statement filed by the Respondent managements?"

(9) All the 13 cases were consolidated and evidence was mainly recorded in two cases regarding Daily Hind Samachar, which was registered as Reference No. 23 of 1973, and Jai Hind Printing Press, which was registered as Reference No. 25 of 1973, before the Tribunal. By its order dated February 15, 1974 (hereinafter referred to as the impugned order), the Tribunal ultimately decided the aforesaid issue against the Managements. Therefore, 10 Managements, which included 6 Newspapers and 4 Printing Presses, out of the aforesaid 13 Establishments, made petitions for writ of certiorari or any other direction or order in the nature thereof quashing the reference of the dispute made to the Tribunal and also for quashing the impugned order, and for writ of prohibition or direction or order in the nature thereof restraining the Tribunal from entertaining or adjudicating the references made to it. The main grounds of attack were as under:—

(a) That there was no industrial dispute within the terms of section 2(k) of the Act and, as such, the references had been made without jurisdiction and were illegal.

(b) That the wages of the working journalists could be determined under the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act No. 45 of 1955 (hereinafter called the Working Journalists Act) and the same had been determined by the Wage Board under its provisions and, therefore, the references of dispute with regard to increase in their wages were illegal being in excess of jurisdiction.

(c) That there was subsisting settlement dated April 23, 1968, between the parties regarding the quantum of wages of

non-working journalists and other workmen and in presence of the said settlement the references of the dispute respecting increase in their wages could not be legally made.

(d) That the impugned order suffers from errors of law and fact apparent on the face of the record.

(10) The writ petitions were contested by Respondents No. 2 and 4 The broad facts were admitted. The material averments made by the petitioners were, however, controverted. It was pleaded on behalf of Respondent No. 4 that writ petitions were not maintainable because the impugned order challenged therein was ad interim and had decided only a preliminary issue.

(11) An order passed or made by the State or by any Tribunal can be challenged in a writ petition under Article 226 of the Constitution of India on the grounds of excess of jurisdiction, want of jurisdiction or there being palpable abuse of the legal process or an error apparent on the face of the record. So, it is mainly the averments which are made against the validity of the order or act made or committed by the Tribunal or the State which determine maintainability of the writ petition. If *prima facie* there is nothing to doubt the averments made in the writ petition challenging the validity of the order or act made or committed by the Tribunal or the State on the said grounds or any one of the same, it (writ petition) is maintainable. In the cases in hand, the orders of references made by the State to the Tribunal have been impugned on the grounds of want and excess of jurisdiction and the impugned order made by the Tribunal has been challenged on account of suffering from errors of law and fact apparent on the face of the record. Therefore, in my opinion, the writ petitions were maintainable on the averments made therein challenging the orders of references and the impugned order. The mere circumstance that the impugned order decided the preliminary objection raised by the petitioners that the references made to it (the Tribunal) were illegal and without jurisdiction, is no ground for contending that the same could not be challenged in the writ petitions, especially when the same has been impugned on account of suffering from errors of law and fact apparent on the face of the record. Therefore, I find no force in the objection raised by Respondent 4 that the writ petitions

were not maintainable having been directed against an *ad interim* order recorded by the Tribunal, and overrule the same.

(12) The contentions raised by Shri O. P. Malhotra, learned counsel for the petitioners, were two-fold. Firstly, that the orders of reference made by the State of Punjab to the Tribunal were without jurisdiction and illegal for the reasons:—

(i) That since the dispute relating to increase in the wages had not been espoused by a substantial number of the workmen, including journalists and non-journalists, it did not partake the nature of industrial dispute as contemplated by section 2(k) of the Act;

(ii) that the dispute relating to the wages for the strike period had never been raised ;

(iii) that the question of increase in wages of the working journalists could only be determined under the provisions of the Working Journalists Act which being complete Code excluded the determination of the said question under the provisions of the Act (No. 14 of 1947); and

(iv) that the question of wages of non-working journalists and other workmen could not be determined by the Tribunal under the provisions of the Act in view of the subsisting settlement, dated April 23, 1968.

Secondly, that the impugned order suffered from errors of law and fact apparent on the face of the record, because—

(a) the Tribunal had gone wrong in formulating seven points while deciding the preliminary objection relating to the order of reference being illegal and without jurisdiction;

(b) the Tribunal ignored or at least did not consider some evidence produced before it, and

(c) it committed error in deciding about the legality and justifiability of the strike without framing an issue in that respect on merits.

(13) In my view, neither of the said two contentions is well-founded. The definition of "industrial dispute" as given in section 2(k) of the Act has to be understood from the scope and context of the whole Act. The said term would mean a dispute between workmen and employers on some general questions on which each group

is bound together by a community of interest. The expressions "terms of employment" and "conditions of labour" occurring in the said definition of "industrial dispute" are, in my opinion, wide enough to include the dispute relating to the increase of wages demanded by the working journalist, non-working journalists and other workmen, from the petitioners. The material present on the record indicates that a sufficient number of working journalists of the Establishments of newspapers were members of Union No. 1 (Punjab Working Journalists Union) and substantial number of non-working journalists and other workmen employed in the Establishments of newspapers and printing presses were members of Union No. 2 (Non-working Journalists Union). The learned counsel for the petitioners had been of the view that since both the said Unions were not of journalists, non-working journalists or workmen of any particular Establishment, the same were incompetent to espouse the dispute raised by journalists, non-working journalists and other workmen respecting increase in their wages. I am unable to subscribe to the said view. Though the membership of the said Unions was not confined to the journalists, non-working journalists or workmen of any particular Establishment, yet neither of the said Unions can be termed as outside Union, for the reasons: firstly, that the said Unions were admittedly working at Jullundur, and, secondly, that 148 out of 300 journalists, who were members of Union No. 1, were from different newspaper Establishments of Jullundur and a substantial number of non-working journalists and workmen of newspaper and printing press Establishments were members of Union No. 2. Therefore, I am of the view that the aforesaid Unions were competent to espouse the cause relating to the increase in wages demanded by the journalists, non-working journalists and other workmen of the Establishments, irrespective of the fact that these Unions were not of journalists, non-working journalists or workmen of any particular Establishment. I am supported in this view by two Supreme Court judgments reported in *Workmen of Dharampal Premchand* v. *Dharampal Premchand* (1) *and Workmen of Indian Express Newspaper Private Ltd.* v. *The Management of Indian Express Private Ltd.*, (2). Further, Union No. 1 raised demand of *ad hoc* increase in wages in the month of June, 1972 and had addressed necessary letters in that respect to all the Establishments. It has also met the representatives of the Establishments respecting the

(1) 1965—I LLJ 668.

(2) 1970—II LLJ 132.

demand for *ad hoc* increase in wages. It had submitted a memorandum to the Labour Minister, Punjab, Union No. 2 had also thereafter joined with Union No. 1 in the matter of raising demand for increase in wages. Letters were addressed to the Labour-cum-Conciliation Officer raising the demand for increase in wages. None appeared before him (Labour-cum-Conciliation Officer, Jullundur) on behalf of any one of the Establishments, although he had sent notices to them to appear on two dates. So, it appears that the matter had been dropped by the Labour-cum-Concilation Officer. The matter was taken at the Government level and efforts were made to settle the dispute through negotiations. A joint convention of both the Unions was held on October 2, 1972, and it was addressed by the Labour Minister. After the conclusion of the said convention, about 400 journalists marched in procession demonstrating their demands, including 25 per cent *ad-hoc* increase in their wages. No fruitful result came out of it. Then a tripartite meeting presided by the Labour Minister was held on November 21, 1972. It too failed to bring about any settlement. Thereafter, the workmen of the Establishments, including journalists and non-working journalists, went on strike which lasted for 50 days. In these circumstances, it is idle to contend that no industrial dispute could be apprehended between the Establishments and journalists, non-working journalists and workmen. The learned counsel for the petitioners urged that there was no dispute respecting the Wages for the strike period. The word 'difference' occurring in the definition of 'industrial dispute' in clause (k) of section 2 of the Act and the word "apprehended" appearing in the opening part of sub-section (1) of section 10 of the Act carry significance. The said words connote that it is not only the 'existing dispute' but also 'apprehended industrial dispute' which can be referred for adjudication to the Tribunal. Clause (d) of sub-section (1) of section 10 of the Act, the relevant part of which reads as under:

> "(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute,..."

widens the discretion of the Government so as to refer even any matter which appears to it to be connected with, or relevant to, the dispute. Therefore, in the circumstances of the case, the State Government could rightly form opinion that industrial dispute was apprehended between journalists, non-journalists and workmen with their respective Establishments respecting wages for the strike period. It cannot be gainsaid that the question of wages for the

strike period was very much connected with, and relevant to, the dispute, whether existing or apprehended, relating to *ad hoc* increase in wages demanded by the journalists, non-journalists and workmen from their respective Establishments. The words "at any time" preceded by the word "may" in sub-section (1) of section 10 of the Act indicate the intention of the legislature that the Government has discretion to refer a dispute or even any matter which appears to be connected with it or relevant thereto, *vide* clause (d) referred to above) at any time when it is of opinion that an industrial dispute is existing or is apprehended. The said words "at any time" further indicate that the Government may make reference of a dispute even though the conciliation proceedings have not been commenced. The provisions of sub-section (1) of section 10 of the Act are not controlled by the provisions of sub-section (4) or (5) of section 12 of the Act. The only limitation indicated by sub-section (5) of section 12 of the Act is that if the Government decides not to make reference for industrial adjudication when the dispute has been investigated by the Conciliation Officer and the latter has submitted a failure report, it (the Government) has to record and indicate to the parties as well the reasons therefor. There is nothing in section 10 or section 12 or in the provisions of the Act which can warrant the view that the conciliation proceedings or the report of the Conciliation Officer is a condition precedent to the Government for exercising its powers to make a reference under section 10(1) of the Act. Therefore, the questions as to whether the dispute relating to *ad hoc* increase in wages claimed by the journalists, non-journalists or workmen or respecting the wages for the strike period had or had not been taken for settlement to the Conciliation Officer or that he had not submitted a failure report, are of no relevancy and do not in any way affect the validity of the reference of disputes made by the State Government under section 10(1) of the Act for adjudication to the Tribunal. It is, thus, clear that the case may be viewed from any angle, there is nothing in the Act which debarred the State Government, much less it excluded its jurisdiction, from referring the matters referred to in the reference for adjudication to the Tribunal. It may be noted that Inderjit Sud and Surjit Singh maintained in their statements before the Tribunal that during the negotiations between the Establishments and their workmen, in the presence of the Government officers the workmen had raised demand of wages for strike period.

(14) The Working Journalists Act is an Act which regulates the conditions of service of working journalists, and the other newspaper employees, as is apparent from its preamble. Besides providing for many matters governing the service conditions of the working journalists and the other newspaper employees, the provisions of the Act (Industrial Disputes Act) have also been made applicable, with slight modifications, by section 3 of the Working Journalists Act. It would, thus, appear that the Working Journalists Act read with the Industrial Disputes Act provided a complete code to regulate conditions of service of working journalists, non-working journalists and the other workmen. When the provisions of the Act (Industrial Disputes Act) (of course with slight modifications as provided in sub-section (2) of section 3 of Act No. 45 of 1955 which are not relevant for decision of the cases in hand) have been made applicable by section 3 of the Working Journalists Act, there can be no room for doubt that provisions of the Act (Industrial Disputes Act) are ancillary and can be used for the decision of rights and disputes of the working journalists, non-working journalists and the other newspaper employees. So, the Working Journalists Act would be deemed to include, may be by fiction, the provisions of the Industrial Disputes Act by virtue of its section 3 which makes the provisions of the Act (Industrial Disputes Act) applicable. No doubt, under the provisions of the Working Journalists Act the Central Government would, as and when necesary, constitute a Wage Board for fixing the wages of working journalists, and the decision of the Wage Board when approved by the Central Government with or without modification, would be binding on the employers to pay wages at the rate which shall in no case be less than the rate of the wages specified in the order of the Central Government (*vide* sections 12 and 13 of the Working Journalists Act). The provisions of section 12 and 13 when read with the other provisions of the Working Journalists Act would show that the said Act has made provision for minimum wages for a working journalist. There is, however, nothing in the Working Journalists Act to show that the working journalists have no right to agitate the question of increase in their wages by raising an industrial dispute in regard thereto. The provisions contained in sub-section (2) and proviso to sub-section (1) of section 16 of the Working Journalists Act rather indicate that newspaper employees, including working journalists, are entitled by agreement or otherwise to claim benefits which would include the increase in wages more favourable to them than those to which they would be entitled under the provisions, including sections 12 and

13, of the said Act. The Working Journalists Act does not contain any provision, and none was referred to me, which expressly or by necessary intendment excludes the application of the Act (Industrial Disputes Act), especially to the matters which are not expressly provided by that Act. The Working Journalists Act does not provide a remedy when the working journalists, non-working journalists or other workmen raise a dispute respecting increase in their wages over and above the rate of wages decided by the Central Government on the recommendation of the Wage Board. Therefore, the contention that the dispute raised by the working journalists or by the newspaper employees in claiming increase in their wages could not be referred to by the State Government for adjudication to the Tribunal, is wholly untenable, especially when section 3 of the said Act, as indicated above, makes the provisions of the Act (Industrial Disputes Act) applicable.

(15) The judgments reported in *Workmen of Hercules Insurance Co. Ltd.* v. *Hercules Insurance Co. Ltd., Calcutta* (3), *Sarat Chatterjee and Co. (Private) Ltd. and others* v. *Central Government Industrial Tribunal, Dhanbad and others* (4), *Madras Harbour Workers' Union* v. *Industrial Tribunal, Madras and others* (5), *and Sanghvi Jeevraj Ghewar Chand and others* v. *Madras Chillies, Grains and Karyana Merchants Workers' Union and others* (6) relied on by the learned counsel for the petitioners in support of his contention that the Working Journalists Act was a self-contained Code and, therefore, the question of increase of wages demanded by the working journalists could not be referred for adjudication to the Tribunal, can be of no help because the same dealt with the cases under different Acts which do not contain any provision parallel to section 3 of the working Journalists Act, which could make the provisions of the Act (Industrial Dispute Act) applicable. *Workmen of Hercules Insurance Company's case* (supra) dealt with a case respecting the payment of bonus by the Insurance Company to its employees under the provisions of the Insurance Act, 1938. The cases of *Sarat Chatterjee and Co. (Private) Ltd. and Madras Harbour Workers' Union* (supra) related to matters with regard to conditions of service,

(3) (1960)-61 19 FJR 391.
(4) 1963—1 LLJ 76.
(5) (1973) 43 FJR 478.
(6) 1969—1 LLJ 719.

such as promotion or payment of bonus or increment in scales of pay, respecting workmen governed by the Dock Workers (Regulation of Employment) Act and the Scheme framed thereunder. *Sanghvi Jeevraj Ghewar Chand's case* (supra) was with respect to the question of payment of bonus under the Payment of Bonus Act. It could not be shown that the provisions of the Act (Industrial Dispute Act) applied or were made applicable by the aforesaid Acts, referred to in the said cases. In that view of the matter, the circumstance that in the said four cases the different Acts, referred to therein, had been held to be complete Code and thereby did not envisage the making of reference of the disputes for industrial adjudication, does not render any assistance to the petitioners and does not support the contention raised by the learned counsel for the petitioners.

(16) There is no material on the basis of which it could be said that the settlement dated April 23, 1968 (Annexure A to the written statement of the Establishments) was between the parties or that Union No. 1 or Union No. 2 or any representative on their behalf had taken any part in the proceedings wherein the settlement had been arrived at. Further, it has not been shown that the said settlement had been arrived at under any statute, much less under the provisions of the Act. Therefore, the contention that the question of wages of journalists and other workmen could not be decided by the Tribunal under the Act in view of the said settlement, is also untenable.

(17) The Tribunal has, no doubt, remarked in the impugned order that as the written statements put in by the Establishments were vague in some respect, it had formulated, with the assitance of the authorised representatives of the parties, seven points which required consideration for decision of the preliminary objection raised by the Establishments that the reference of dispute was illegal and without jurisdiction. It appears that the Tribunal had, in formulating the points in issue, taken into account the pleadings of the Establishments and the representations made by their authorised representatives. It was done by the Tribunal with a view to clarify the points on the basis of which the preliminary objection had been raised by the Establishments. The points formulated by the Tribunal for decision of the preliminary objection cannot be said to be different, much less materially or substantially from the ground on which the preliminary objection raised by the

Establishments had been based or was supported by their authorised representatives. Therefore, I am unable to agree with the learned counsel for the petitioners that the Tribunal had made out any new case while formulating the aforesaid points for deciding the preliminary objection raised by the Establishments. So, I do not think that the act of the Tribunal in formulating the seven points or recording decision thereon tantamounts to any illegality or irregularity that can vitiate the impugned order.

(18) The Tribunal has recorded the impugned order at a sufficient length. It gave consideration to all the material evidence produced before it. On going through it and the material referred to at the time of arguments, I was not at all impressed that the Tribunal had ignored or did not consider any evidence or material produced before it while recording the impugned order. The findings recorded by the Tribunal on facts cannot be subject of meticulous scrutiny under the proceedings in writ jurisdiction. The Tribunal, to my mind, has not misread any evidence or omitted to take into consideration any material fact while recording its decision on different points formulated by it for the decision of the preliminary objection.

(19) The legality or illegality and justifiability or unjustifiability of the strike are mixed questions of fact and law. Therefore, I feel inclined to agree with the learned counsel for the petitioners that the Tribunal should have better decided the question of legality and justifiability or otherwise of the strike while dealing with the second matter in dispute, i.e., entitlement of the journalists, non-working journalists and other workmen to wages for the strike period, referred to it for adjudication. The paries are undoubtedly entitled to lead evidence in proof or disproof of the matters indicating the justifiability or unjustifiability of the strike. They could do so if and when the Tribunal settled issues on merits for deciding the aforesaid second question respecting entitlement of the journalists, non-working journalists and other workmen to wages for the strike period. It is apparent from the impugned order that the Tribunal too was of the opinion that the question about the justifiability or otherwise of the strike should be determined after the parties had led evidence in support or rebuttal of the aforesaid matter relating to entitlement of journalists, non-working journalists and other workmen to wages for the strike period. But it was swayed away in dealing with the legality and justifiability of the strike while deciding the preliminary issue

because of the insistence shown by the Managtments for decision of the same at that stage. It appears that the union—respondents did make application that since the justifiability or otherwise of the strike was a matter connected with the decision of the merits, its determination should be deferred till the decision of the case on merits. But the said application was resisted by the Managements and it was insisted upon that the said matter be also determined while deciding the preliminary issue. There can be no doubt that the legality and justifiability of the strike are very much relevant to, or at least have important bearing on the matter in dispute, referred to at No. 2 in the reference, i.e., entitlement of the working journalists, non-working journalists and other workmen to wages for the strike period. Since the said matter has yet to be decided on merits and the parties have not been afforded any opportunity to lead evidence on that matter, the decision of legality and justifiability of the strike while disposing of the preliminary issue is, therefore, likely to prejudice the cause of the parties respecting the entitlement of the journalists, non-working journalists and other workmen to wages for the strike period, which, as indicated above, is a matter in dispute referred to at No. 2 of the reference for adjudication. Therefore, in fairness to the parties, I would like to observe that the opinion of the Tribunal respecting the legality and justifiability of the strike while deciding the preliminary issue is tentative and is confined for the decision of the prelimnary issue. It would not preclude the Tribunal from coming to a different conclusion if and when the evidence led by the parties on the relevant issues framed on merits would so warrant and would not debar the parties from producing evidence on such issues to be framed for the decision of the point which is subject of dispute at No. 2 of the reference, i.e., entitlement of journalists, non-working journalists and other workmen to wages for the strike period. I would, however, hasten to remark that the act of the Tribunal in dealing with the question of legality and justifiability of the strike, especially when the decison on that point was insisted upon by the petitioners while deciding the preliminary issue, does not vitiate it and is no ground for questioning the same. The impugned order too does not suffer from any error of law or of fact apparent on the face of the record.

(20) It, thus, follows from the discussion above that there is no force in the attack directed by the petitioners against the order of reference or the impugned order and there is no merit in this petition or any other connected nine petitions referred to in the beginning of the judgment.

(21) Consequently, I dismiss this writ petition as well as Civil Writ Petitions No. 1296, 1297, 1298, 1299, 1449, 1300, 1715, 1716 and 1717 of 1974. In the peculiar circumstances of the case, I make no order as to costs.

(22) It is, however, added for the sake of clarity that the parties would be at liberty to lead evidence in proof and disproof of the legality and justifiability or otherwise of the strike when the matter in dispute, referred to at No. 2 in the reference, i.e., entitlement of journalists, non-working journalists and other workmen to wages for the strike period, is tried on merits by the Tribunal, and it (the Tribunal) would record independent decision on the basis of evidence if led by the parties on that matter, irrespective of its opinion expressed about it in the impugned order.

B.S.G.

REVISIONAL CIVIL

Before A. D. Koshal, J.

CHAMAN LAL DECEASED—*Petitioner.*

versus

SMT. AMRIT KAUR—*Respondent.*

Civil Revision No. 524 of 1974.

May 5, 1975.

East Punjab Urban Rent Restriction Act (III of 1949)—Section 13—Ejectment of a statutory tenant by the landlord—Death of such tenant—Landlord's right to obtain possession of the demised premises—Whether survives—Legal representatives of the deceased tenant—Whether can resist the ground of bona fide *requirement by the landlord.*

Held, that—

(a) A statutory tenant has only a personal right to continue in possession till evicted in accordance with law.

(b) When a statutory tenant dies, the landlord's right to obtain possession of the demised premises survives to him.