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L.L.B Part- 3rd

Subject- Labour Law

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Topic- What is Award? State the legal consequences of the publication of award? How award may be qualified after its publication?.

Award-

AN "AWARD" means "an interim or final determination by an Industrial Tribunal of any industrial dispute or any question relating thereto." This definition was substituted by the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956), with effect from March 10, 1957. Under the amended definition, besides industrial tribunals, labour courts and national industrial tribunals have also been added as adjudicating authorities. An arbitration award made under section IOA is also included in the definition. Thus, an order shall be deemed to be an award in terms of section 2 (b) of the Act, if: (i) it is an interim or final determination of an industrial dispute, or (ii) it is an interim or final determination of any question relating to such dispute, and (iii) the said interim or final determination is made by a labour court, an industrial tribunal or a national tribunal, or (iv) it is an arbitration award under section IOA. The first part of the definition of 'award' specifies a determination. final or interim. The second part pertains to a determination of any question relating to the dispute. However, the basic postulate common to both the parts is the existence of an industrial dispute. actual or apprehended. The determination contemplated is of the dispute, or a question relating thereto, on merits. The mere fact that the order of a labour court is published under section 17(1) of the Industrial Disputes Act does not confer on that the status of an award.² The Calcutta High Court has held that the Parliament has chosen not to restrict the definition of 'award' to a determination by a labour court, industrial tribunal or national industrial tribunal constituted under • Advocate, Supreme Court of India. J. Section 2(b), Industrial Disputes Act, 1947. 2. Cox & Killgs (Agents) Ltd. v, Their Workmen, 1977 LLe 897 (sq. 124 LABOUR ADJUDICATION IN INDIA sections 7, 7A or 78 of the Industrial Disputes Act, 1947. While referring to an arbitration award, it has specifically referred to an arbitration award under section IOA of the Industrial Disputes Act, 1947. When the Supreme Court hears an appeal against an award and modifies the same, the court is exercising the powers of the industrial tribunal itself and the modified award is an award of the tribunal within the meaning of section 2(b) of the Industrial Disputes Act, 1947.³ Also an order passed under section 33(5) of the Act by conciliation officer under section 33(2)(b) of non-

prosecution is not an award since such order would only mean that there was no application under section 33(2)(b) of the Act." Thus, an award should satisfy the following requirements : (a) The parties to be bound by or to perform the award must be certain. (b) If the payment of a sum of money by one party to another is directed, the amount to be paid must be specified; or some rule or direction given by which the sum to be paid may be calculated without any doubt. (c) If the performance of any conditions or terms is directed by the award, such conditions or terms must be clearly defined; and specific directions should be given as to their proper performance. (d) The time for performance of the award, or of any conditions or terms contained therein, must be expressly fixed, or such directions given as will enable the time to be easily determined.

Form of an Award:

Sec.16(2) of the Act simply states that the award of a Labour Court, Tribunal or National Tribunal shall be in writing and shall be signed by the presiding officer.

Publication of awards:

The adjudicator shall submit the award to the appropriate Government under section 15 of the I.D Act. The appropriate Government shall then within a period of thirty days from the date of its receipt publish the award in such manner as the Government thinks fit. . It is mandatory for the appropriate Government to publish the award, unless it is prevented from doing so by an order of a Court of competent jurisdiction. The appropriate Government is duty bound to publish the award, because unless the award is published it cannot become enforceable under the scheme of the Act. But in public undertaking government can defer with the period of 30 days for this government. has to bring a notification into official gazette before the expiry of the 30thday or before enforceability later after the notification government remains silent , award will automatically become enforceable after the 90thday from the date of ion of the award.

Commencement or Enforceability of an award:

The award which has been published shall become enforceable on the expiry of thirty days from the date of its publication.

Unless the award becomes enforceable, no rights and liabilities can arise under the award. In other words, the obligations imposed by the award on the parties shall come into effect immediately after the expiry of thirty days statutory period from the date of its publication.

Coming into operation of an award:

Sec.17-A(4) lays down that the award shall come into operation from such date which is specified therein, but where no date is specified, it shall come into operation on the date when the award becomes enforceable. The Act distinguishes between the enforceability and coming into operation of an award. Coming into operation envisages the date from which the benefits provided in the award shall be available to the parties. The adjudicator, according to this Section, has discretion to bring the award into operation from any date that may be specified in the award.

Persons on whom the awards are binding:

According to Sec.18(3) of the Act, an award of a Labour Court, Tribunal or National Tribunal, as the case may be, which has become enforceable shall be binding on-

- a) all the parties to the industrial dispute;
- b) all other parties summoned to appear in the proceeding as parties to the dispute.

Period of operation of awards:

Sec.18(3) lays down that an award shall remain in operation for a period of one year from the date on which the award becomes enforceable under Sec.17-A. This one year period of operation can be reduced or increased by the government under the provisions of Sec.19 but government cannot exceed this period beyond 3 years.

Awards which are operative are binding.

After the expiry of the period of operation, award will be statutorily binding till this award is terminated by giving a notice of 2 months by the party to other party or parties . This notice can be given before the expiry of the operative period or thereafter. Unless the award is terminated it continues to be binding after the expiry of the period.

Still after the termination award will be bindings upon the parties till it is replaced by a new award. The rationale behind this concept is that courts have observed there is implied consent of both the parties.

Penalty for breach of award:

If any person commits breach of any term of award , he is liable for the punishment. The punishment provided for is imprisonment which may extend upto 6 months or fine or both.

Award qualified after its publication-

If the Govt. want to temper with the award and presented the copy of award in the front of parliament or state legislature , it will become enforceable after 15days of presenting the copy. Sec.17(2) of the I.D. Act declares, Subject to the provisions of Section 17-A, the award published under sub-sec(1) shall be final and shall not be called in question by any court in any manner whatsoever. This provision, first, seeks to oust the jurisdiction of the civil courts against the awards of adjudicators under the Act. Secondly, it implies that there is no appeal or revision against the awards.

The End