
CASE ANALYSIS: STATE OF BOMBAY V. K.P. KRISHNAN, AIR 1960 SC 1223¹

Ishthartha H R, BBA LLB, Symbiosis Law School, Nagpur

Introduction:

This landmark decision by the Supreme Court in 1960 centered on the interpretation of Section 12(5) of the Industrial Disputes Act, 1947 ²(IDA), specifically the nature of the "discretion" vested in the "appropriate Government" to refer industrial disputes for adjudication after failed conciliation. The dispute arose between the Firestone Tyre & Rubber Co. and its workmen, who had raised four demands: gratuity, holidays, re-classification of certain employees, and an unconditional bonus for the 1952-53 financial year. The Firestone management, however, stood firm. They rejected all four demands outright. The workmen's union then turned to the machinery established by the Industrial Disputes Act, 1947. They approached the Assistant Commissioner of Labour for Bombay, who was also the statutory Conciliation Officer. The Conciliation Officer admitted only the bonus and re-classification demands into conciliation. After failure of the conciliation, his report as mandated under Section 12(4)³ on account of failure of the conciliation process found "considerable substance" in the workmen's claims. However, the Bombay Government refused to refer the dispute under Section 12(5)⁴ to consider the failure report and determine whether the dispute merited reference to an Industrial Tribunal for adjudication, citing the sole reason that the workmen had resorted to "go-slow" tactics during 1952-53. The workmen successfully challenged this refusal via a writ of mandamus in the Bombay High Court, leading to the State's appeal to the Supreme Court.

Background:

In the aftermath of the Bombay Government's refusal to refer this dispute under Section 12(5) of the Industrial Disputes Act, 1947 (IDA), the aggrieved workmen turned to the judiciary. In February 1955, under Article 226 of the Constitution, they filed a writ petition before the

¹ State of Bombay v. K.P. Krishnan & Ors., AIR 1960 SC 1223.

² Industrial Disputes Act, 1947, § 12(5), No. 14, Acts of Parliament, 1947 (India).

³ Industrial Disputes Act, 1947, § 12(4), No. 14, Acts of Parliament, 1947 (India).

⁴ Id. § 12(5).

Bombay High Court seeking a mandamus to compel the State to refer their demands for bonus and re-classification to adjudication. their argument was challenging the State's rationale that past "go-slow" misconduct by workers which is already the subject of internal disciplinary proceedings, was being used as the sole basis to deny access to a statutory dispute resolution mechanism. The workmen contended that such reasoning amounted to a punitive veto over their legal rights, which is not related to the substantive merits of the dispute.

Justice Tendolkar, held that the structure of Section 12(5) of IDA which requires the government to provide recorded reasons when declining to make a reference, imposes a substantive obligation. Though the statute uses the word "may," Tendolkar J. interpreted it as conferring a duty to refer disputes where a prima facie case exists. He found the "go-slow" rationale legally irrelevant and directed the State to reconsider its decision, this time excluding that factor entirely. More than a procedural correction, this judgment also asserted an important constitutional principle: access to adjudication cannot be denied as a form of punishment for past conduct unrelated to the dispute in question.

Division Bench Ruling

On appeal by the company, the Division Bench of the Bombay High Court (Chagla CJ and Desai J.) upheld the single judge's decision, rejecting the government's claim of absolute discretion under Section 12(5) of the IDA. The Court emphasized that the requirement to record reasons imposes a substantive check on executive power. It held that denying reference based on prior "go-slow" misconduct is unrelated to the merits of the dispute and was irrelevant and contrary to the statute's purpose. The Bench affirmed, Justice Tendulkar's decision.

Supreme Court Appeal

The matter proceeded to the Supreme Court by way of appeal under Article 133(1) by the company. The key issue was whether the government's discretion under Section 12(5) allowed refusal of reference on grounds extraneous to the dispute. A Constitution Bench, led by Justice Gajendragadkar, rejected the government's broad reading of "may." The Court held that discretion under Section 12(5) must be exercised on relevant grounds and in furtherance of the IDA's objective of ensuring fair dispute resolution. The refusal based on past misconduct was found to be an improper exercise of discretion, reaffirming that procedural fairness is central to justice.

Analysis:

The K.P. Krishnan decision did not radically alter the IDA framework but significantly refined and reaffirmed the law concerning governmental discretion in referring disputes, with cr implications:

Firstly, The Court explicitly confirmed that the word "may" in Section 12(5) confers discretion. However, it firmly rejected the argument that this discretion was as wide as under Section 10(1) without qualification. The requirement to "record and communicate reasons" (Section 12(5)) inherently limits this discretion, preventing arbitrary or capricious decisions.

Secondly, it establishes the "Germaneness Test". This is the judgment's most significant contribution. The Court held that while the Government isn't confined only to the Conciliation Officer's report (it can consider other relevant material), the reasons for refusal must be germane and relevant to determining if a "case for reference" exists. Irrelevant, extraneous, or punitive considerations invalidate the refusal. This introduced a crucial standard of reviewability for administrative action under the IDA.

Thirdly, the court asserted that the purpose of the IDA is the "investigation and settlement of industrial disputes". Refusing a reference solely to punish past misconduct (like "go-slow"), especially when disciplinary action had already occurred and the dispute itself (like bonus/re-classification) was unrelated to that misconduct, fundamentally subverted this objective. It clarified that expediency cannot mask punitive motives.

Fourthly, The Court resolved a potential conflict, holding that while Section 12(5) triggers the process, a reference, if made, must ultimately be issued under Section 10(1). This was crucial because Section 10(1) grants ancillary powers (like prohibiting strikes/lockouts under S. 10(3)) essential for effective adjudication, which wouldn't be available if S. 12(5) were an independent source of power. This preserved the integrated scheme of the Act.

Fifthly, the court , while acknowledging that orders under Section 12(5) are administrative and courts shouldn't scrutinize the adequacy or propriety of reasons like an appellate court, the Court firmly established that review is permissible where refusal is based on:

1. Wholly irrelevant or extraneous considerations.

2. A failure to record and communicate reasons.
3. Mala fides.
4. Violation of statutory provisions (e.g., referring to the wrong authority under S. 10(1)).

This balanced the need for executive discretion with the need for accountability and access to adjudication.

The landmark judgment in *State of Bombay v. K.P. Krishnan* laid down enduring principles in Indian industrial jurisprudence, particularly concerning the scope and limits of governmental discretion under Section 12(5) of the Industrial Disputes Act, 1947 (IDA). The Supreme Court affirmed that while the appropriate Government is vested with the discretion to refer or not to refer an industrial dispute for adjudication, such discretion is not unfettered. It must be exercised bona fide, and on the basis of considerations that are relevant and germane to the existence of a prima facie case for reference.

A crucial procedural safeguard established by the Court was the requirement that, in cases of refusal to refer, the reasons must be recorded and communicated. These reasons must pertain directly to the dispute in question and cannot be rooted in considerations that are irrelevant, extraneous, or punitive in nature. For instance, reliance on unrelated past misconduct of a workman as a ground for refusal was deemed legally impermissible. The judgment thereby imposed a substantive check on the administrative exercise of discretion under the IDA.

Furthermore, the Court held that such administrative decisions are amenable to judicial review under Article 226 of the Constitution⁵, particularly through writs of mandamus. Judicial intervention is warranted where the Government's decision is based on irrelevant factors, suffers from mala fides, or fails to comply with procedural requirements. By articulating these standards, the judgment significantly enhanced governmental accountability in the realm of industrial dispute resolution.

The broader effect of the decision was to reinforce the institutional mechanisms envisioned under the IDA for the peaceful resolution of industrial disputes. It empowered workmen by ensuring that disputes possessing prima facie merit could not be arbitrarily excluded from

⁵ India Const. art. 226.

adjudication. Additionally, it provided the judiciary with a concrete evaluative standard namely, the criterion of “germaneness” for assessing the validity of Governmental refusals to refer disputes.

However, the judgment also revealed certain lacunae in the legal framework that remain unaddressed. One notable ambiguity concerns the concept of “expediency.” While the Court rejected the invocation of irrelevant or arbitrary notions of expediency as grounds for refusal, it simultaneously acknowledged that “relevant expediency” such as the staleness of a claim or its inconsistency with legal provisions or existing agreements could justify non-referral. Yet, the judgment provided limited guidance on what constitutes “relevant” expediency, thereby leaving the standard susceptible to subjective and potentially inconsistent application by the executive.

Similarly, the Court permitted the Government to consider “other relevant material” in addition to the conciliation officer’s report. However, it refrained from delineating the scope or nature of such supplementary material, leaving open the possibility of overreach or misuse in future cases.

Finally, the judgment did not explicitly address the allocation of the burden of proof in challenges to the Government’s decision. It remains unclear whether the burden lies upon the Government to demonstrate the relevance of its stated reasons, or upon the aggrieved party to establish their irrelevance. This omission introduces an element of procedural uncertainty that could affect the efficacy of judicial review in such matters.

Its lasting importance is shown by the fact that later the Supreme Court has regularly agreed with and followed its principles in its decisions such as in *Hochtief Gammon vs. State Of Orissa And Others*⁶ where the court emphasized that it is well accepted that a writ of mandamus can be issued against the Government if its order under Section 10(1) violates the provisions of clauses (a) to (d), particularly in selecting the appropriate authority. Likewise, if the Government refuses to make a reference under Section 12(5) without recording and communicating its reasons to the concerned parties, a writ of mandamus would also be maintainable.

⁶ *Hochtief Gammon vs. State Of Orissa And Others* , 1975 AIR SC 2226

Conclusion

In essence, *State of Bombay v. K.P. Krishnan* remains a cornerstone decision. It successfully navigated the tension between governmental discretion in managing industrial relations and the fundamental statutory goal of providing access to adjudication for genuine disputes. By establishing the "germaneness test" and outlawing punitive refusals, it ensured that discretion would not become a tool for injustice or a barrier to the peaceful resolution of industrial conflict, a legacy that continues to shape the application of the Industrial Disputes Act today.