PETITIONER:
THE STATE OF UTTAR PRADESH

Vs.

RESPONDENT:
M/S. SWADESHI COTTON MILLS CO., LTD.,AND ANOTHER(and connec

DATE OF JUDGMENT:
20/11/1957

BENCH:
IMAM, SYED JAFFER
BENCH:
IMAM, SYED JAFFER
BHAGWATI, NATWARLAL H.
GAJENDRAGADKAR, P.B.

CITATION:
1958 AIR 187 1958 SCR 973

ACT:
Industrial Dispute-Awards made beyond specified time-Validity-Provision for enlargement of time and validation-Construction-Uttar Pradesh Industrial Disputes Act, 1947 (U. P. 27 of 1947), s. 6-A--Uttar Pradesh Industrial Disputes (Amendment) Ordinance, 1953 (U. P. Ordinance 1 of 1953) s. 3.

HEADNOTE:
Clause 16 of the General Order No. 6,5 made by the Governor on March I5, 195,, under the Uttar Pradesh Industrial Disputes Act, 947, provided that the decision of the Tribunal or
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Adjudicator shall be pronounced within 4o days from the date of reference. By orders dated August 19, 1952, and January 20, 1953, the Governor referred two industrial disputes for adjudication. The references did not specify the time within which the awards were to be submitted but stated that the disputes were to be adjudicated in accordance with the provisions of Order No. 615. In the first reference the period for making the award was extendad from time to time up to March 10, 1953, but in the second reference the time was not extended. On February 18, 1953, before the awards were made, cl. 16 of Order No. 615 was amended and the time Of 4o days was altered to 18o days. The award in the first case was made on April 17, 1953, beyond 180 days of the reference, and in the second case on June 26, 953, beyond 40 ,lays of the reference but within 180 days thereof. On May 22, 1953, the Uttar Pradesh Industrial Disputes (Amendment) Ordinance, 1951, came into force which conferred, with retrospective effect, power on the State Government to enlarge, from time to time, the period for making an award and which also validated certain awards not made within the time originally fixed for making them. The Labour Appellate Tribunal held that the two awards were not valid in law as they had not been made within time. It was contended by the appellant that as cl. 16 of the Order No. 6I5 had been amended the orders of reference must be construed as specifying 180 days within which the awards were to be submitted, and that, in any case, the awards were validated

by S. 3 of the Ordinance.
Held, that the award in the first case was submitted beyond time and was invalid and could not be validated by s. 3 Of the Ordinance but that the award in the second case, though submitted beyond time, was validated by S. 3(2) of the Ordinance.
The Act required the awards to be submitted within a specified time and although the orders of reference specified no time it was stated therein that the references were to be decided in accordance with the provisions of Order No. 615, and as such the orders must be read as specifying 4o days as the time within which the awards had to be submitted. The subsequent amendment of cl. 16 whereby 180 days were substituted for 4o days could not affect an order of reference previously made as cl. 16, as amended, could not be held to have retrospective operation.
On a true construction Of S. 3 Of the Ordinance cl. (1) must be held to validate all orders of extension of time for submission of awards made prior to the commencement of the Ordinance, cl. (3) applies to proceedings pending at the commencement of the Ordinance and makes s. 6-A of the Act, introduced by the Ordinance, applicable to such proceedings and cl. (2) validatesawards against which no judicial proceedings were pending at the commencement of the Ordinance and not only awards which had become final. Consequently, the award in the first case against which an appeal had been filed before the commencement of the
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Ordinance and to which cl. (3) Of s. 3 of the Ordinance applied was bad as it was made beyond the last date of the enlargement of time. But the award in the second case against which the appeal was filed after the commencement of the Ordinance was validated by el. (2) Of S. 3 of the Ordinance.

JUDGMENT:
CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 14 and 15 of 1955.
Appeals by special leave from the decision dated September 30, 1953, of the Labour Appellate Tribunal of India, Lucknow in Civil Appeals Nos. 111-198 of 1953 and III-321 of 1953.
S. S. Dhawan, G. C. Mathur and C. P. Lal, for the appellants and respondent No. 2 (Unions) in both the Appeals.
H. N. Sanyal, Additional Solicitor-General of India, and S. P. Varma, for the respondent No. I in C. A. No. 14 of 1955.
N. C. Chatterjee and Radhey Lal Aggarwala, for the respondent No. 1 in C. A. 15 of 55.
1957. November 20. The following Judgment of the Court was delivered by
IMAM J.-These two appeals by special leave have been heard together as they arise out of a single judgment of the Labour Appellate Tribunal of India, Lucknow, dated September 30, 1953, passed in seven appeals before it. As the question for consideration in the appeals before this Court is the same, this judgment will govern both the appeals before us. Civil Appeal Nos. 14 and 15 of 1955 arise out of Appeal Nos. 111-198 of 1953 and 111-321 of 1953 respectively before the Labour Appellate Tribunal.
The question for consideration before the Labour Appellate Tribunal was whether the awards from which the seven appeals had been filed before that Tribunal were valid in law and

made with jurisdiction. It is this very question which arises in the appeals before us.

Before dealing with the question raised in these appeals it is necessary to state certain facts. On March 15, 1951, the Governor of Uttar Pradesh made a, General Order consisting of numerous clauses under

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powers conferred on him by cls. (b), (c), (d) and (g) of s. 3 and s. 8 of the Uttar Pradesh Industrial Disputes Act, 1947 (Act XXVIII of 1947), hereinafter referred to as the Act, in supersession of the general Order No. 781 (L)/XVIII dated March 10, 1948. The Order of March 15, 1951, was numbered 615 (LL)/ XVIII-7 (LL) of 1951, hereinafter referred to as Order No. 615. Under cl. 16 of Order No. 615, the decision of the Tribunal or Adjudicator was to be pronounced within 40 days, excluding holidays but not annual vacations observed by courts subordinate to the High Court, from the date of reference made to it by the State Government concerning any industrial dispute. The proviso to it authorised the State Government to extend the period for the submission of the award from time to time. On February 18, 1953, this clause was amended and the time of 40 days was altered to 180 days. On December 17, 1952, the judgment of this Court in the case of Strawboard Manufacturing Co., Ltd. v. Gutta Mill Workers' Union (1), was pronounced. In consequence of this decision the Act was amended by the Uttar Pradesh Industrial Disputes (Amendment) Ordinance, 1953 (Ordinance No 1 of 1953), hereinafter referred to as the Ordinance, promulgated by the Governor of Uttar Pradesh. The Ordinance came into force on May 22, 1953. By the provisions of s. 2 of the Ordinance s. 6-A was introduced into the Act. Section 2 of the Ordinance states

"After section 6 of the U. P. Industrial Disputes Act, 1947 (hereinafter referred to as the Principal Act), the following shall and be deemed always to have been added as section 6-A

"6-A. Enlargement of time for submission of awards. Where any period is specified in any order made under or in pursuance of this Act referring any industrial dispute for adjudication within which the award shall be made, declared or submitted, it shall be competent for the State Government, from time to time, to enlarge such period even though the period originally fixed or enlarged may have expired."

(1)[1953] S. C. R. 439.

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Section 3 of the Ordinance states :

"Removal of doubts and validation-For the removal of doubts it is hereby declared that :

(1)any order of enlargement referred to in section 6A made prior to the commencement of this Ordinance under the Principal Act or any order passed thereunder which would have been validly and properly made under the Principal Act if section 6-A had been part of the Act shall be deemed to be and to have been validly and properly made thereunder;

(2)no award whether delivered before or after the commencement of this Ordinance in any industrial dispute referred prior to the said commencement for adjudication under the Principal Act shall be invalid oil the ground merely that the period originally specified or any enlargement thereof had already expired at the date of the mkaing, declaring or submitting of the award and any action or proceeding taken, direction issued or jurisdiction exercised in pursuance of or upon such award be good and valid in law as if section 6-A had been in force at all

material dates;
(3)every proceeding pending at the commencement of this Ordinance before any court or tribunal against an award shall be decided as if the provisions of section 6-A bad been in force at all material dates." The following chart will show the date of reference, the date on which the period of 40 days expired, the dates and the periods of enlargement, the date of submission of the award and the date of filing of the appeal, in the seven appeals before the Labour Appollate Tribunal:
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Appeal No.	Date of reference	Date on which 40 days, available for the initial sub-mission of the award expired	Date & Period of enlargement if any	*	$
111-186/53	13-2-1953	3-4-1953	Nil	6-4-1953	5-5-1953
111-187/53	28-1-1953	18-3-1953	Nil	13-4-1953	5-5-1953
111-321/53	28-1-1953	18-3-1953	Nil	26-6-1953	18-7-1953
111-183/53	28-1-1953	18-3-1953	Nil	13-4-1953	4-5-1953
111-323/53	9-2-1953	29-3-1953	Nil	22-6-1953	20-7-1953
111-209/53	15-1-1953	5-3-1953	13-3-1953 (up to 31-3-1953) 17-4-1953	9-4-1953	8-5-1953
111-198/53	19-8-1952	10-10-1953	(i) 4-11-1952 up to 11-11-1952 (ii) 26-12-1952) (up to 31-12-1952) (iii) 13-1-1953 (up to 31-1-1953) (iv) 11-2-1953 (up to 10-3-1953)		13-5-1953

*) Date of submission of the award.
$) Date of filing of the appeal.

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The Labour Appellate Tribunal found that the award in appeal No. 111-198 of 1953 was made not only on the expiry of the period of enlargement but also long after the expiry of 180 days from the date of reference. In the case of the other appeals the awards were made on the expiry of 40 days but within 180 days of the reference. Appeals Nos. 111-321 and 323 of 1953 were filed after the commencement of the Ordinance and the others before its commencement.
In the case of the Swadeshi Cotton Mills Co., Ltd. (Civil Appeal No. 14 of 1955), the Governor by an order dated August 19, 1952, referred the dispute between the said Mills and its workmen to the Additional Regional Conciliation Officer, Kanpur for adjudication, on the issue stated therein, in accordance with the provisions of Order No. 615. In the case of Kamlapat Motilal Sugar Mills (Civil Appeal No. 15 of 1955), the Governor by his order dated January 28, 1953, referred the dispute between the said Mills and its workmen, on the issue mentioned therein, to the Regional Conciliation Officer, Lucknow for adjudication in accordance with the provisions of Order No. 615. In both these orders of reference no date was specified within which the Regional Conciliation Officers of Kanpur and Lucknow were to submit their awards. All that was stated in these orders was that they shall adjudicate the dispute in accordance with the provisions of Order No. 615. It is only by reference to cl. 16 of Order No. 615 that it is possible to say that the decisions of these Conciliation Officers were to be

pronounced within the time specified in the Orders of reference and that would be 40 days from the date of reference. In the case of the Swadeshi Cotton Mills, there were several periods of enlargement of time but in the case, of the Kamlapat Motilal Sugar Mills there was no enlargement of time, as will appear from the above-mentioned chart.

Under s. 3 of the Act the State Government, for the purposes mentioned therein, could, by general or special order, make provisions for appointing Industrial Courts and for referring any industrial dispute for conciliation or adjudication in the manner provided

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in the order. Order No. 615 was a general order made by virtue of these provisions. Clause 10 of that Order authorized the State Government to refer any dispute to the Industrial Tribunal or if the State Government, considering the nature of the dispute or the convenience of the party, so decided, to any other person specified in that behalf for adjudication. Clause 16 specified the time within which the decision of the Tribunal or the Adjudicator had to be pronounced, provided the State Government could extend the period from time to time. Section 6(1) of the Act specifically stated that when an authority to which an industrial dispute had been referred for award or adjudication had completed its enquiry, it should, within such time as may be specified, submit its award to the State Government. It would appear therefore, that the Act required the submission of the award to be made within a specified time, which time, in the absence of a special order of reference of an industrial dispute for conciliation or adjudication under s. 3 of the Act, would be determined by the provisions of a general order made by the Government in that behalf. An order of reference of an industrial dispute for adjudication without specifying the time within which the award had to be submitted would be an invalid order of reference. In fact, the orders of reference in the cases under appeal specified no time within which the award had to be submitted. All that they directed was that the dispute shall be adjudicated in accordance with the provisions of Order No. 615. If these orders of reference are read along with cl. 16 of Order No. 615, then it must be deemed that they specified the time within which the award had to be submitted as 40 days from the dates of reference.

The proviso to cl. 16 of Order No. 615 empowering the State Government to extend the period from time to time within which the award had to be submitted was found to be an invalid provision, having regard to s. 6(1) of the Act, by this Court in the case of Strawboard Manufacturing Co. Ltd. v. Gutta Mill Workers' Union (1). If the matter had stood there

(I) [1953] S.C.R. 439.

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only, the awards, having been submitted beyond forty days from the dates of reference, would be invalid as the periods of extension granted from time to time by the State Government for their submission could not be taken into consideration. The Act, however, was amended by the Ordinance and s. 6-A was added to the Act and according to the provisions of s. 2 of the Ordinance, s. 6-A of the Act must be deemed to have formed a part of the Act at the time of its enactment. Section 6(1) and s. 6-A of the Act must therefore be read together. Section 6(1) of the Act specifically stated that the award must be submitted within a specified date in an industrial dispute referred for adjudication after the completion of the enquiry. Under s.

6-A, however, the State Government was empowered from time to time to enlarge the period even though the period originally fixed or enlarged might have expired. The orders of reference in these appeals, as stated above, specified 40 days within which the awards had to be submitted. The State Government could, however, enlarge the periods within which the awards had to be submitted under s. 6-A by issuing other orders in the case of each reference extending the time within which the awards had to be submitted. Admittedly, .no such order was, in fact, passed in the case which is the subject of Civil Appeal No. 15 of 1955, and in the case which is the subject of Civil Appeal No. 14 of 1955, although orders extending the time for the submission of the award were made and the last order extended the time to March 10, 1953, yet the award was submitted on May 13, 1953. The awards in these cases were, therefore, made in the one case beyond the time specified in the order of reference and in the other beyond the extended period within which the award had to be submitted.

It was urged on behalf of the appellant, the State of Uttar Pradesh, that as cl. 16 of Order No. 615 had been amended whereby 180 instead of 40 days had been provided as the period within which an award had to be submitted, the orders of reference in the cases before as must be construed as specifying

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180 days within which the awards had to be submitted. In other words, cl. 16, although amended on February 18, 1953, was retrospective in operation. Order No. 615 is a general order under which conciliation boards and industrial tribunals may be set up to deal with industrial disputes. It is true that el. 16 enjoins that the decisions by the tribunal or the adjudicator must be pronounced within a specified number of days but this is a general direction. An order of reference is a special order. It could have stated the manner in which the industrial dispute was to be adjudicated and it could also have specified the time within which the decision had to be pronounced. As the orders of reference in the cases before us merely stated that they were to be decided in accordance with the provisions of Order No. 615, the disputes had to be adjudicated in the manner so provided and the orders of reference must, accordingly, be read as having specified 40 days as the time within which the awards had to be submitted. Subsequent amendment of cl. 16, whereby 180 days instead of 40 days was provided as the time within which the award had to be submitted, could not affect an order of reference previously made according to which the award had to be submimitted within 40 days. We cannot agree with the submission made on behalf of the appellant that cl. 16, as amended, must be given retrospective effect and the orders of reference previously issued must be regarded as specifying the time of 180 days for the submission of the awards. Section 6(1) of the Act is to the effect that the authority to which an industrial dispute has been referred for adjudication must submit its award within such time as may be specified. This section read with s. 6-A of the Act, on a proper interpretation of their provisions, makes it clear that the time within which the award shall be submitted is the period specified in the order of reference. Mere amendment of cl. 16 would not, therefore, affect the period already specified in the order of reference. It seems to us, therefore, that the amendment to el. 16 did not materially affect the position and the awards in the cases before us had to be submitted within

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40 days from the dates of the orders of reference or within the enlarged time for the submission of the awards.

What is the effect of s. 3 of the Ordinance is a matter which now remains to be considered. This section purported to remove doubts and to validate orders of extension of time for the submission of an award. It also purported to validate certain awards. There is no difficulty in construing cl. (1) of this section. It validates all orders of extension made prior to the commencement of the Ordinance as if s. 6-A of the Act had been a part of the Act always. In other words, orders of extension of time made under the general order, promulgated under s. 3 of the Act, would be regarded as made under s. 6-A. Clause (3) of s. 3 of the Ordinance also does not present any difficulty in construing its provisions. It directs that every proceeding pending before any Court or Tribunal at the commencement of the Ordinance against an award shall be decided as if s. 6-A of the Act had been in force at all material dates. Clauses (1) and (3) of this section merely re-emphasise the provisions of s. 6-A of the Act, which, in our opinion, are clear enough even in the absence of the aforesaid clauses.

It is cl. (2) of s. 3 of the Ordinance which requires careful examination. Learned Counsel for the appellants contended that el. (2) was sufficiently wide in its terms to include all awards and not merely awards which bad become final as held by the Labour Appellate Tribunal. The words at the end of the clause " as if s. 6-A had been in force at all material dates " were redundant and they should be ignored. Indeed, according to him, there was no need for the existence of el. (3) in view of the provisions of cl. (2). Clause (2) validated all awards whether made before or after the commencement of the Ordinance even if the period specified within which they were to be submitted or any enlargement thereof had already expired in so far as they could not be questioned merely on that ground alone and this would cover even a proceeding pending in any Court or Tribunal at the commencement of the Ordinance against an award,

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Mr. N. C. Chatterjee, appearing for respondent No. 1, in Civil Appeal No. 15 of 1955, contended that the Labour Appellate Tribunal took the correct view that cl. (2) of s. 3 of the Ordinance covered cases where the awards had become final. He further developed his argument in support of the decision of that Tribunal on the following lines. Such clarification, as was sought to be made, by s. 3 of the Ordinance must be construed in relation to s. 6-A of the Act and not independently of it. If an award were made outside the ambit of s. 6- A then the whole of s. 3 of the Ordinance could not apply to such a case. Section 3(1) of the Ordinance validated all orders of enlargement of time which were made prior to the commencement of the Ordinance. Such orders should be deemed to have been validly made as if s. 6-A had been a part of the Act. Section 3(2) of the Ordinance was enacted to prevent the validity of an award being questioned when it had been submitted after the specified period for its submission or any enlargement thereof. The words " as if section 6-A had been in force at all material dates " merely connote that there must be an order of enlargement made by the Government in the exercise of its powers under s. 6-A of the Act. Section 3(2) of the Ordinance had no application to a case where an award was made independently of the exercise of the powers of the Government under s. 6-A. Section 3(2) and (3) of the

Ordinance were subservient to s. 6-A of the Act.
The Tribunal apparently took the view that there was repugnance between sub-ss. (2) and (3) of s. 3 of the Ordinance and so it made an attempt to avert that repugnance by putting an artificial restriction on the scope of sub-s. (2) of s. 3. In holding that s. 3(2) applied only to awards that have become final, the Tribunal overlooked the fact that this sub-section referred to awards which may be made even after the commencement of the Ordinance and it is not easy to appreciate how finality could be said to attach to these awards on the date when the Ordinance was promulgated. The Tribunal also felt impressed by the argument that if s. 6-A applied to appeals or

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proceedings against awards pending at the date of the commencement of the Ordinance, there was no reason why the same provision should not apply to appeals or proceedings which may be taken against the awards after the commencement of the Ordinance. In giving expression to this view, however, the Tribunal clearly overlooked the fact that s. 3 (3) is deliberately confined to proceedings against an award pending at the commencement of the Ordinance and no others. There can be little doubt, in our opinion, that the main purpose of the Ordinance was to validate orders of extension of time within which an award had to be submitted as well as to prevent its validity being questioned merely on the ground that it had been submitted beyond the specified time or any enlargement thereof. Apart from an order of extension of time the Ordinance purported to deal with at least three situations so far as the submission of an award was concerned. One was where an award was submitted before the commencement of the Ordinance and against which no proceeding was pending before any Court or Tribunal at the commencement of the Ordinance; another was where an award was submitted after the Ordinance came into force. These cases were dealt with by cl. (2) of s. 3 of the Ordinance. The third was the case where an award was submitted before the commencement of the Ordinance against which a proceeding was pending before a Court or a Tribunal before the Ordinance came into force. Section 3(3) of the Ordinance was so drafted that it should not interfere with judicial proceedings already pending against an award. It merely directed that such a proceeding must be decided as if s. 6-A had been a part of the Act from the date of its enactment. Where, however, no judicial proceedings against an award were pending it was the intention of the Ordinance that the award shall not be questioned merely on the ground that it was submitted after the specified period for its submission or any enlargement thereof. Although s. 3(2) of the Ordinance is not happily worded and appears to have been the result of hasty legislation, we think, that upon a reasonable construction of

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its provisions its meaning is clear and there is no real conflict between its provisions and the provisions of cl. (3) of the section. The words " as if section 6-A had been in force at all material dates " have to be given some meaning and they cannot be regarded as redundant as suggested on behalf of the appellants. Grammatically they should be regarded as referring to any action or proceeding taken, direction issued or jurisdiction exercised in pursuance of or upon an award. Section 6-A of the Act, however, has nothing to do 'With this and these words car not apply to that part of the clause. These words also

cannot refer to a case where the award has been made beyond the specified period and in which there has been no order of enlargement of time as s. 6-A of the Act does not apply to such a -lase. The words in question, therefor, can only apply to that part of the clause which refers to an enlargement of time for the submission of the award, which is the only purpose of s. 6-A of the Act. In our opinion, if s. 3(2) of the Ordinance is read in this way an intelligible meaning is given to it which is consistent with s. 6-A of the Act and not in conflict with s. 3(3) of the Ordinance. The awards referred to in s. 3(2) are awards against which no judicial proceeding was pending at the commencement of the Ordinance. In our opinion, the provisions of s. 3(2) and (3) are not in conflict with each other. We cannot accept the view of the Labour Appellate Tribunal that s. 3(2) refers only to awards that had become final.

Having construed the provisions of s. 3 of the Ordinance, it is now necessary to deal specifically with the appeals before us. Appeal No. III-198/53 of the Labour Appellate Tribunal, out of which Civil Appeal No. 14 of 1955 arises, was filed before the commencement of the Ordinance and by virtue of s. 3(3) of the Ordinance the appeal had to be decided as if the provisions of s. 6-A had been in force at all material dates. To such an appeal the provisions of cl. (2) of s. 3 of the Ordinance would not apply. This appeal would, therefore, be governed by cl. (3). As in this case, the award had been submitted on May 13, 1953,

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and the last date of enlargement gave time for the submission of the award up to March 10, 1953, the award was submitted beyond time and, therefore, was invalid as having been made without jurisdiction.

In Civil Appeal No. 15 of 1955, arising out of Appeal No. 111-321 of 1953 of the Labour Appellate Tribunal, the appeal was filed before that Tribunal after the commencement of the Ordinance. The award was submitted long after the period, namely, 40 days, within which it had to be submitted and there were no orders of enlargement of time. Section 3(2) of the Ordinance and not s. 3(3) would, therefore, apply to this appeal. The award in this case consequently has been validated by virtue of the provisions of s. 3(2) of the Ordinance and its validity cannot be questioned merely on the ground that it was submitted after the period within which it should have been submitted.

In the result, Civil Appeal No. 14 of 1955 is dismissed with costs and Civil Appeal No. 15 of 1955 is allowed with costs and the decision of the Labour Appellate Tribunal in Appeal No. 111-321/53 before it is set aside.

Appeal No. 14 of 1955 dismissed.

Appeal No. 15 of 1955 allowed.

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