

(2008) 08 DEL CK 0081

In the Delhi High Court

Case No : LPA No. 1152 of 2007 and CM Application 10934 of 2007

A.I.I.M.S.

APPELLANT

Vs

Raj Singh

RESPONDENT

Date of Decision : 25-08-2008

Acts Referred:

Industrial Disputes Act, 1947 — Section 2J

Citation : (2008) 08 DEL CK 0081

Hon'ble Judges : A.P. Shah, C.J.; Dr. S. Muralidhar, J

Bench : Division Bench

Advocate : Mukul Gupta and Akshai Malik, for the Appellant; Sonia Arora, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal is directed against the impugned order dated 26th March 2007 passed by the learned Single Judge dismissing WP(C) 2771 of 1999 filed by the appellant All India Institute of Medical Sciences (AIIMS).

2. The facts leading to the filing of the appeal are that the respondent Raj Singh was working as Driver with AIIMS on daily wages since 1st August 1984 and continued to work as such till 13th August 1987 on daily wages. Aggrieved by the termination of the services, Raj Singh raised an industrial dispute which was referred to the Labour Court. By an Award dated 4th December 1988 the Labour Court decided the issues in favour of the workman and against the appellant herein and directed the reinstatement of the workman, without back wages. Aggrieved to the extent, the back wages was denied, the workman filed WP(C) 5569 of 1999. The appellant herein AIIMS filed WP(C) 2771 of 1999 insofar as the termination of the services of the respondent were held to be illegal and reinstatement ordered.

3. It was contended on behalf of the appellant before the learned Single Judge that AIIMS was a hospital and not an "industry" within the purview of the

Industrial Disputes Act, 1947 ("ID Act"). It was accordingly contended that the respondent was not a workman and therefore, the Labour Court has no jurisdiction to entertain his claim. Reliance was placed upon the judgments in *The Management of Safdarjung Hospital, New Delhi Vs. Kuldip Singh Sethi*, ; *Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and Others*, and *State of U.P. Vs. Jai Bir Singh*, .

4. The learned Single Judge negated the contention and held that the Labour Court was justified in holding the appellant to be an "industry" within the meaning of the ID Act. As regards, the petition by the workman, since he did not claim back wages before the Labour Court it was held that no such relief could be granted in the writ petition. Both writ petitions were accordingly dismissed.

5. We heard the submissions of Mr. Mukul Gupta, learned Counsel for the appellant and Ms. Sonia Arora, learned Counsel for the respondent.

6. In the present appeal, at one stage, the parties were directed to take instructions on whether they would be willing to settle their disputes. However, no amicable settlement could be arrived at.

7. It was submitted by Mr. Mukul Gupta, learned Counsel for the appellant that the correctness of the decision of the Constitution Bench in the *Bangalore Water Supply and Sewerage Board* has been referred to a larger Bench of the Supreme Court and therefore, this Court should await the judgment of the larger Bench before deciding the present case. We are unable to accept this submission. The law declared in *Bangalore Water Supply and Sewerage Board* continues to be binding. This Court has to apply the law as it prevails. The reliance placed upon the decision of the Supreme Court in *Physical Research Laboratory Vs. K.G. Sharma*, is misconceived for the simple reason that the AIIMS does not cease to be a hospital merely because research is also carried on therein. Applying the law as explained in *Bangalore Water Supply and Sewerage Board*, AIIMS has to be held to be an "industry" within the meaning of the ID Act.

8. Reliance was placed on the judgment in *Director, Food and Supplies, Punjab and Another Vs. Gurmit Singh*, to contend that evidence had not been led before the Labour Court in regard to the issue whether AIIMS is an industry and that the case should be remanded to the Labour Court for a fresh determination. This Court finds that the decision in *Gurmit Singh* turned on its own facts. A specific plea was taken in case that the establishment was not an industry that had not been considered by the Labour Court. As far as the present case is concerned, the Labour Court has indeed considered this point and held as under:

11. As regards the plea that management is not an industry, the law is well-settled. It was held long back by Constitution Bench of the Hon"ble Supreme Court in *Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and Others*, that hospital, research institutes and training centre render valuable material services to the community qualifying for coming within Section 2(J) of Industrial Disputes Act. The same was followed in *Dr V.P. Chaturvedi and Others*

Vs. Union of India (UOI) and Others, and V.L. Chandra and Ors. v. AIIMS and Ors. reported as (1990) 3 SCC 381. In view of the said authorities pronouncing I have no hesitation in holding that the management is an industry.

9. In that view of the matter, it cannot be said that the Labour Court erred in holding the appellant to be an industry. Having considered the decisions in State of Gujarat and Others Vs. Pratamsingh Narsinh Parmar, ; Physical Research Laboratory Vs. K.G. Sharma, and National Physical Lab. Executive Engineer v. K. Somasely 1997 SC 2663 this Court is not persuaded to take a view different from that taken by the learned Single Judge.

10. We find no infirmity in the impugned order passed by the learned Single Judge that calls for interference. The appeal and the pending application are, accordingly, dismissed.