

(2017) 08 GUJ CK 0093
In the Gujarat High Court
Case No : 838 of 2016

BARODA RAYON CORPORATION LTD

APPELLANT

Vs

JAYANTKUMAR MAGANBHAI PACHCHIGAR

RESPONDENT

Date of Decision : 30-08-2017

Acts Referred:

[Industrial Disputes Act, 1947](#), [Section 2\(s\)](#)
- Definitions

Citation : (2017) 08 GUJ CK 0093

Hon'ble Judges : Akil Kureshi, Biren Vaishnav

Bench : Division Bench

Advocate : K M PATEL, HAMESH C NAIDU, NIKUNT K RAVAL

Final Decision : Allowed

Judgement

1. The present Letters Patent Appeal arises out of the judgement of the learned Single Judge dated 25.02.2016. By the said judgement under challenge, the original petitioner succeeded before the Learned Single Judge. The learned Single Judge upset the findings of the Labour Court which held that the respondent-employee was not a "workman" within the definition of section 2(s) of the Industrial Disputes Act, 1947 ["the Act" for short].

2. Facts in brief are as under: The respondent herein joined the appellant-company as Junior Engineer (Mechanical) on 28.09.1981. He was subsequently promoted as Assistant Superintendent by an order dated 15.11.1991.

3. As the respondent did not remain present during a visit of boiler inspection, by a written order dated 24.02.1995, his services were terminated. This prompted the him to approach the Labour Court raising the industrial dispute. It was the case of the respondent before the Labour Court that he was working in the factory and carrying out skilled/technical work and therefore, was a "workman" as defined under section 2(s) of the Act. The employer contested the claim as, according to the employer, the nature of duties of the employee were in a

supervisory capacity and therefore, fell within clause (iv) of Section 2(s) of the definition of "workman" under the Act.

4. The respondent, in order to make out a case of being a workman made following assertions in his statement of claim: i. That his work was technical in nature;

ii. That he was not engaged in a managerial or administrative capacity;

iii. That he had no independent duties of supervision or taking disciplinary action against his subordinates.

iv. That he worked in accordance with the instructions handed out by superiors, the Superintendent Engineer and the General Manager (Technical). It was his assertion that he was not engaged in any supervisory capacity. His nature of work was skilled, technical and operational and therefore he was a "workman" within the provisions of Section 2(s) of the Act.

5. Before the Labour Court the employer, asserted that the respondent was working as an Assistant Superintendent. In the operations branch where he worked, he was in-charge and supervisor of the operational wing. According to the employer: i. there were several employees such as turbine operators, fitters and foreman working under the respondent. There was no person, in the operational wing, to whom he was a subordinate.

ii. That he was the Shift Engineer and was competent to having powers to organise the schedule of the shifts.

iii. that the employee was competent to sanction leave.

The Labour Court, after the assessment of evidence, arrived at findings of fact that the employee was the shift in-charge; that approximately 50 persons were working under him; that he had the powers to sanction leave etc. The Labour Court held that in such circumstances the respondent was engaged in a supervisory capacity drawing wages exceeding Rs1600/- and therefore could not be termed as "workman" within the definition of section 2(s) of the Act. The Labour Court came to a specific finding that since he was shift in-charge and there were personnel working under him.

6. Before the Labour Court, the respondent was examined at Exh 14. He stated that he was initially appointed as a Junior Engineer. He was holding a degree of Bachelor of Engineering. In the year 1991 he was promoted as Assistant Superintendent. It was further his case in the evidence that he used to operate the boiler and look after its maintenance. He has asserted in his evidence that he had no powers issue show cause notices or charge-sheet to his subordinates. In the cross-examination before the Labour Court, he categorically admitted that the work of the company is carried out in three shifts and that he is the shift in-charge. He further admitted that as and when the workman working in his shift applied for leave, the report for such leave had to be submitted to him. In the

cross examination, this employee further stated that in the operational branch worked in four shifts and there were 50 workman in the shift which included turbine operators, foreman etc. He admitted that as a shift in-charge he had the flexibility to shuffle the duties and assign work as per the need, in the shifts.

7. On behalf of the employer, one Surendra Motilal Shah was examined at Exh 51. What comes out from the evidence of this witness is that the respondent was working in the operation wing, in which, there were about 50 employees under the him. That the respondent who was designated as an Assistant Superintendent had several categories of workers, such as, Foreman, boiler attendant, Assistant Foreman, turbine operators, and other workmen in the operation wing of the department under him. The work to such persons was assigned by the Assistant Superintendent-the employee herein. The Assistant Superintendent was even designated as Shift Engineer. The discretion to grant leave rested with the Assistant Superintendent during the shift operations. It has also come in the cross examination of this witness that the employee had no powers to issue show-cause notices or charge sheet.

8. At Exh 64, the management examined one Kalidas Laljidas Patel. Though the Labour Court has not relied on the evidence of this management witness, what comes out from the evidence of this witness is that the respondent was independently assigned the charge of the operational wing and there were 20 to 50 workmen working under him.

9. Based on this evidence, the Labour Court arrived at findings of fact that the respondent-original petitioner fell within clause (iv) of section 2(s) of the Act. The respondent was employed in a supervisory capacity drawing wages exceeding Rs. 1600/-. That the respondent was drawing Rs. 7000/- as wages was not in dispute before the Labour Court. The Labour Court, in such circumstances rejected the Reference of the respondent, prompting the respondent to file a Petition challenging the Award of the Labour Court.

10. The learned Single Judge, by his judgement dated 25.02.2016, held as under: "4.4. Having heard learned advocates appearing for respective parties and considering the finding recorded by the learned Labour Court and the evidence on record more particularly the deposition of the petitioner, who has been examined at Exh.14 and the deposition of one Surendrabhai Motilal Shah, who has been examined on behalf of the management at Exh.51 and considering the totality of the facts and circumstances of the case and the evidence on record more particularly the deposition of the aforesaid two witnesses, I am of the opinion that in the facts and circumstances of the case, learned Labour Court has materially erred in holding that the petitioner cannot be said to be workman in terms of section 2(s) of the ID Act. It is required to be noted and from the evidence it appears that the petitioner joined the services with the management as Junior Engineer and thereafter he was permitted to the post of Assistant Superintendent. That at the time of termination the petitioner was serving as an Assistant Superintendent Mechanical in the Boiler Department. It is true that in

the Boiler Department approximately 50 other employees were working. It is also true that all those employees might be working in the Boiler Department under the petitioner. However, from the evidence it appears that the petitioner was not having any other authority either to issue show-cause notice and/or take disciplinary action against any of the employees working in the Boiler Department. Only charge which the petitioner was having was to forward leave applications of the concerned employee. He had no authority even to sanction leave of any of the employee working in the Boiler Department. It has also come on record that even without the recommendation of the petitioner, the higher authorities were sanctioning the leave of the concerned workman in the Boiler Department. Only because of the fact that 50% were serving in the Boiler Department in which the petitioner was serving as Assistant Superintendent Mechanical and that he might be issuing some instructions to the concerned employees in the Boiler Department, it cannot be said that the petitioner was in supervisory category on the basis of which the petitioner can be executed as workman in terms of section 2(s) of the ID Act. On considering the entire evidence on record more particularly deposition of the petitioner, who has been examined at Exh.14 and the deposition of one Surendrabhai Motilal Shah, who has been examined on behalf of the management at Exh.51, this Court is of the opinion that the finding recorded by the learned Labour Court holding that the petitioner cannot be said to be workman in terms of section 2(s) of the ID Act and consequently dismissing the reference on the aforesaid ground cannot be sustained. The finding recorded by the learned Labour Court are contrary to the evidence on record and/or on misappropriation of the entire evidence on record, which cannot be sustained."

11. According to the Learned Single Judge, though it was true that there were other 50 employees working under the respondent, but since he had no authority either to issue a show cause notice and/or take disciplinary action, it cannot be said that the respondent was employed in a supervisory capacity and hence exempt from being a "workman" under section 2(s) of the Act.

12. Mr. K.M. Patel, learned senior advocate for the appellant has assailed the findings of the learned Single Judge on several counts. They are as under: i. the respondent was initially appointed as Junior Engineer (Mechanical) . He was subsequently promoted and was working as an Assistant Superintendent w.e.f. 15.11.1991.

ii. According to Shri Patel, from the evidence on record before the Labour Court, the employer had satisfactorily proved that;

(a) the employee, as per his own admission, was in charge.

(b) that approximately 50 persons were working under him;

(c) that he was drawing a salary of Rs. 7000/- (exceeding the ceiling limit of Rs. 1600/-.) He therefore fell in clause (iv) of Section 2 (s) of the Act and hence not a "workman".

13. Reliance has been placed by Shri Patel on a judgement in the case of Shri S.K. Maini vs. M/s. Carona Sahu Company limited and ors. reported in AIR 1994 SC 1824. This judgement is cited by Shri Patel in context of the findings of the learned Single Judge holding that since the employee had no powers to take disciplinary action or sanction leave, it could not be said that he was working in a supervisory capacity. Mr. Patel by relying on paras 10 and 11 of the judgement has submitted that though the workman may not essentially be employed mainly in the managerial or administrative capacity, however, he was employed in a supervisory capacity drawing a salary of 7000/-. He would therefore fall within clause (iv) and therefore, not be a workman as defined under section 2(s) of the Act. While determining the categories of service as indicated by the words "supervisory" "managerial" or "administrative" it was not necessary to bring interpretation of one into the other. Once if it was on facts found that the respondent was in charge of the shift and drawing wages exceeding Rs.1600/-, he would fall within clause (iv) of section 2 (s) of the Act.

14. During the course of arguments, Mr. Patel also invited our attention to the judgement in the case of Digvijay Cement Co. Ltd vs. Chandravani J. S. reported in 1998 (2) GLH 302. This judgement was pressed in service to support his contention that the employee himself in the present case has admitted that he was working as Shift Engineer. The Labour Court has rightly come to the conclusion that the employee was in a supervisory capacity drawing wages exceeding the ceiling limit and therefore not a workman.

15. Mr. Nikunt Raval learned advocate for the respondent has supported the findings of the learned Single Judge. Taking us through the evidence of the workman, Mr. Raval contended that what is apparent from the nature of duties carried out the work involved skilled and technical operations. Taking us through the relevant portion of the evidence of the workman Mr Raval submitted that during the course of his work he would carry out maintenance and repairs of the boiler which was a skilled operation. The fact that he had obtained a proficiency certificate for such boiler operations justified his claim that the nature of duties he discharged were technical and skilled. The Labour Court was in error in holding that nature of duties were supervisory and therefore that he was not a workman within the definition of section 2(s) of the Act. In the alternative Mr. Raval submitted that even if the employee was working in a supervisory capacity, in order to come within the purview of clause (iv) of section 2(s), the nature of duties must be such that by reason of the powers vested in him, his functions are of a managerial nature.

16. According to Mr. Raval, the learned Single Judge has rightly held that since the employee had no authority to issue a show cause notice/take disciplinary action or sanction leave he could be said to be working in a supervisory capacity and therefore not a workman.

17. Section 2(s) of the Act defines the term "workman" which reads as under: 2. (s) workman" means any person (including an apprentice) employed in any

industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person--

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

18. Reading of the definition indicates that a person can be a workman if he is employed in any industry to do any manual unskilled, skilled, technical, operational clerical or supervisor work for hire or reward. Categories excluded from the definition would be a person subject to the Air Force Act etc; who is employed in the police service or who is employed mainly in a managerial or administrative capacity or who being employed in a supervisory capacity, draws wages exceeding Rs. 1600/- per mensem (prescribed at the relevant time) or exercises either by the nature of the duties attached to the office or by a reason of the power vested in him functions mainly of a managerial nature.

19. Therefore, the reading of the definition would indicate that in the event, a person who performs duty which is supervisory in nature, he would be a "workman" unless while being employed in such a supervisor capacity he draws wages exceeding Rs. 1600/-, he would fall within clause (iv) of Section 2(s) of the Act and would not be a "workman" within the definition of section 2(s).

20. Analysis of this definition came up for consideration before this Court. In case of Umakant S. Deshpande vs. Gujarat Electricity Board, reported in 2001 (3) GLH 36 the Division Bench of this Court was considering the issue in context of whether an Accounts Officer of the Gujarat Electricity Board could be termed as a "workman" By the judgement so Division Bench confirmed the judgement of the learned Single Judge rendered in Special Civil Application No. 1595 of 1989 and group. It will be in fitness of things to consider the observations of the learned Single Judge in case of Gujarat Electricity Board vs. B.M. Shah which was confirmed by the judgement under reference. The learned Single Judge analyzed the provision of section 2(s) of the Act and held as under:

"10. Section 2(s) of the I.D. Act, in so far as is relevant for the purposes of the

petition, reads as under:-

2(s) "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed but does not include any such person ---

(i) xxx xxxx xxx xxx

(ii) xxx xxx xxx xxx

(iii) who is employed mainly in a managerial or administrative capacity, or

(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

The definition may be analysed as under :-

Definition of a workman under Section 2(s) is in three parts:-

(1) The first part gives statutory meaning of workman introducing the aspect of contract of employment with the employer and further refers to types of work for which he must be employed.

(2) The second part includes more persons than those primarily denoted by the first part and it thus gives an extended connotation to the expression.

(3) The third part specifies (exceptions) as to who out of the categories enumerated in part one and two of the definition are specifically excluded, though they satisfy the requirements of part one or two.

A person in order to be a workman must be employed to do work of any of the enumerated type, it is not enough that he is not covered by any of the enumerated exceptions contained in the sub-clauses of the third part of the Definition.

The third part has four sub-clauses.

(i) & (ii) The first two sub-clauses exclude the personnel in the Armed Forces and in police force. (iii) The third sub-clause excludes one who is employed mainly in a managerial or administrative capacity.

(iv) The fourth sub-clause excludes one who being employed in a supervisory capacity :

(a) draws wages exceeding Rs.1600 per mensem or

(b) exercises, either by nature of duties attached to the office or by reason of

powers vested in him, functions mainly of managerial nature."

11. In view of the above analysis, there is considerable force in the submission of Mr Pandya for the Board that an employee who is employed in a supervisory capacity goes out of the definition of a workman once he is found to be drawing wages exceeding Rs.1600 per month OR he exercises functions mainly of a managerial nature. Consequently an employee employed in a supervisory capacity and drawing wages exceeding Rs.1600 p.m. goes out of the definition of "workman" even if he does not exercise functions of a managerial nature. This submission of Mr Pandya is borne out by a catena of decisions of the Apex Court. All those decisions are set out and discussed in the judgement of the Bombay High Court in Union Carbide (India) Ltd. vs. D. Samuel, in 1998 (80) FLR 684 as under:- "Section 2 (s) of the Industrial Disputes Act as interpreted till now contemplates three categories of managerial employees who would be excluded from the definition of workman. The first category is a person who is employed mainly in a managerial capacity. The second category is a person employed mainly in an administrative capacity. The third category is a person employed in a supervisory capacity and drawing wages exceeding Rs.1600 per mensem as it now stands or a person employed in a supervisory capacity doing work of a managerial nature on account of nature of duties attached to the office or by reason of powers vested. On behalf of the respondent workman a fourth category is now sought to be added, namely, that a person working in a supervisory category must not only work as a supervisor and draw salary of Rs.500/or more as it then stood (now Rs.1600), but such person must also exercise by nature of duties attached to the office or by reason of powers vested in him, functions of a managerial nature. No doubt in the first flush the argument looks attractive as to who can be a supervisor. The question, therefore, arose as to how such an interpretation was missed by the courts over years. The answer lies in the disjunctive "or". A person working in a supervisory capacity must either draw wages exceeding Rs.1500 per mensem or as a supervisor he must exercise by reason of duties attached to his office or by reason of powers vested in him functions mainly of managerial nature, in which event the salary that he is drawing is immaterial. In other words, a look at the said definition would show that a person working in a supervisory capacity, to be excluded from the definition of workman, must be either doing work of a supervisory capacity and drawing wages exceeding Rs.1600 now (and then Rs.500) or such a supervisor without the question of salary being considered, must by nature of duties attached to his office or powers vested in him perform duties mainly of a managerial nature. In other words, if a supervisor is entrusted with mainly managerial functions then irrespective of the fact as to what are the wages, will be excluded from the definition of a workman. The language is clear. It is not capable of the interpretation which is sought to be bestowed on it on behalf of the workman. In Vinayak Baburao Shinde v. S. Shinde & Ors. this argument was advanced and it was contended that the word "or" must be read as "and" that is conjunctive instead of disjunctive. The said argument was rejected. For the

reasons aforesaid, I find no merit in the said contention raised on behalf of the workman that to fall in the definition of supervisor the supervisor ought not only to have been doing work of a supervisory nature and drawing salary of Rs.1500/- but also exercise by virtue of the nature of the duties attached to his office or by reason of powers vested in him functions mainly of managerial nature."

While examining clauses (iii) and (iv) of section 2(s) the Court observed that as far as clauses (iii) and (iv) are concerned, the third sub clause of section 2(s) excludes one who is employed mainly in managerial or administrative capacity. Clause (iv) excludes the one who being employed in a supervisory capacity draws wages exceeding Rs. 1600/- per mensem or exercises either by nature of duties attached to the office or by reasons of power vested in him, functions mainly in managerial nature.

21. On assessment of evidence, the Labour Court, in the facts of the present case recorded the following factual findings: (i) That the respondent herein was admittedly a shift in charge;

(ii) That he had approximately 50 workman working under him and he was taking work from them;

(iii) That he had the discretion during the shift to assign duties as the circumstances required.

(iv) that though he may not have the power to sanction leave, reports had to go through him.

(v) That he had the discretion to take decisions to assign duties as per the circumstances required. He could reshuffle the assignments during such shifts. In the branch there was no officer.

(vi) that he had no powers to take disciplinary action. Based on this, the Labour Court held that the respondent was a supervisor, working as a shift in-charge. Since he was drawing wages exceeding Rs 1600/-, though the worked involved skill, the employee, in view of clause (iv) would not be a workman.

22. Assessment of findings of the learned Single judge would indicate that the learned Single Judge, to an extent accepted the findings of fact of the Labour Court by observing that it is true that there were several persons working under the respondent, however as he did not have the power to take disciplinary action or sanction leave, he could not be said to be working in a supervisory capacity.

23. The analysis of section 2(s) would indicate that to exclude the person from the definition "workman" apart from clause (I) and (ii) there were two separate special clauses, namely clauses (iii) and (iv). If the concerned person is employed mainly in a managerial or administrative capacity he would not come within the purview of definition of workman as per clause (iii) of section 2 (s) of the Act.

24. As far as clause (iv) is concerned, if a person is employed in a industry and while being so employed in a supervisory capacity, draws wages exceed Rs.

1600/- ,such a person would not be a workman as per clause 2(s) of the Act. The submission of Mr. Raval that in addition to his work being supervisory, his case would not fall within clause (iv) if being so employed in a supervisory capacity his nature of duties attached to his office or by reasons of the powers vested in him his functions are of a managerial nature. The submission cannot be accepted as in clause (iv) of section 2 (s) once the person engaged in a supervisory capacity is found to be drawing wages exceeding Rs 1600/- he goes out of the definition. The qualification to the nature of duties being managerial in nature is preceded by the word OR and not AND as would Mr Raval's submission would lead us to so read. Both clauses (iii) and (iv) are distinct and separate.

25. The Learned Single Judge, with respect, was in error to hold,that since the respondent had no power to take disciplinary action or sanction leave,he could be held to employed in a supervisory capacity. On appreciation of evidence,when the Labour Court had held that the respondent was working as a Shift In-Charge with 50 employees working under him,and drawing Rs 7000/-,which factual finding was accepted by the Learned Single Judge,absence of vesting of disciplinary powers would not take the case out from the purview of clause (iv) of section 2 (s) of the Act.

26. Mr. Patel learned advocate for the appellant had also contended that the scope of interference with findings of fact of the Labour Court was restrictive. Once the Labour Court on assessment of evidence held the respondent not to be a workman,such a finding of fact could not have been upset by the Learned Single Judge,in exercise of powers under Article 226 of the Constitution Of India.

27. In this context it will be in the fitness of things to rely upon the judgement of Supreme Court in case of Pepsico India Holding Private Limited vs. Krishna Kant Pandey reported in (2015) 4 SCC 470. In such case, the Supreme Court, held as under: "13.Considering the entire facts of the case and the findings recorded by the Labour Court, prima facie we are of the view that the High Court has exceeded in exercise of its jurisdiction under Articles 226 and 227 of the Constitution of India in interfering with the finding of facts recorded by the Labour Court. It is well settled that the High Court in the guise of exercising its jurisdiction normally should not interfere under Article 227 of the Constitution and convert itself into a court of appeal.

15. In the case of Birla Corpn. Ltd.. vs. Rajeshwar Mahato and Others, (2001) 10 SCC, the question of validity of termination of services of the respondent by the appellant-Corporation was referred to the Industrial Tribunal. On evidence, the Industrial Tribunal found that the duties of the respondent were mainly managerial or administrative. The Tribunal held that the respondent was not a workman and the reference was therefore not maintainable against the decision of the Tribunal. The Tribunal relying on Section 2(s)(iv) (as amended in West Bengal W.B.) held that as the respondent was drawing salary less than Rs.1600/- per month, he had to be regarded as a workman. The Corporation moved this Court against the order of the High Court. This Court while setting aside the

decision of the High Court held as under :-

"4. It was not in dispute that at the time of the termination of services of Respondent 1, he was receiving Rs 1185 per month by way of salary. The Tribunal recorded the evidence as well as took into consideration documentary evidence which was produced by the parties. On the basis of the evidence which was adduced before it, the Tribunal observed that:

"The main duties of Shri Rajeshwar Mahato were both supervisory and administrative in nature.

In the instant case, Shri Mahato's functions were mainly of a managerial nature. He had control as well as supervision over the work of the jute mill workers working under him."

11. As we have also noticed hereinabove, the Tribunal had given a categorical finding to the effect that Respondent 1's function was mainly of managerial nature. His duties were both supervisory and administrative and therefore he was regarded as not being a workman. Though the Tribunal did not specifically state so, it is evident that it is because of Section 2(s)(iii) that Respondent 1 was regarded as not being a workman.

12. Neither the Single Judge nor the Division Bench of the High Court, as we have already noticed, referred to this aspect of the matter. Even assuming that the West Bengal amendment was applicable, that would still not help to hold Respondent 1 as a workman if the finding of the Tribunal with regard to the nature of the duties performed by him, as arrived at by the Tribunal, is not set aside as being frivolous or without any evidence. As long as the finding of the Tribunal stands, namely, that the respondent was an employee mainly in a managerial or administrative capacity, the award of the Tribunal could not have been set aside. As we have already observed the Single Judge or even the Division Bench could have come to the conclusion that the finding so arrived at by the Tribunal was either frivolous or not based on any evidence. But this aspect of the case was completely overlooked by the High Court. The emphasis of the Single Judge as well as the Division Bench was only with regard to applicability of the amendment of the State of West Bengal to Section 2(s) of the Industrial Disputes Act. In our opinion, therefore, the High Court erred in allowing on this ground the writ petition filed by Respondent 1. The decision of the High Court is set aside and the writ petition filed therein by the respondent stands dismissed."

28. For the aforesaid reasons, we are of the opinion that the learned Single Judge fell in error in upsetting the findings of the Labour Court. The respondent cannot be said to be a "workman" as defined under section 2(s) of the Act. The Labour Court committed no error in holding that the respondent was employed in a supervisory capacity drawing wages exceeding the ceiling limit of Rs.1600/-, hence not a workman. The Reference was therefore rightly rejected.

29. In the result, judgement and order dated 25.02.2016 of the learned Single

Judge is set aside. The Award of the Labour Court dated 12.12.2001 is restored. The appeal is allowed and disposed of accordingly.

30. We have not examined any other issue in this letters patent appeal except the question of the employee being a workman or not. In that view of the matter nothing stated in this order would hamper the employee in pursuing any other remedy in law if available.