
(1966) 01 AHC CK 0019
In the Allahabad High Court

Central Railway Workshop (by Works Manager)	APPELLANT
Vs	
Viswanath and Others	RESPONDENT

Date of Decision : 18-01-1966

Acts Referred:

Factories Act, 1948 — Section 2

Citation : (1966) 2 LLJ 717

Hon'ble Judges : S.N. Katju, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.N. Katju, J.—The sole question for consideration in this application in revision is whether the plaintiffs are workers within the meaning of Section 2(1) of the Factories Act of 1948, hereinafter called the Act.

2. The plaintiffs are employed in the Jhansi Central Railway Workshop, Jhansi. They are:

timekeepers, who prepare the pay-sheet of the workshop staff, maintain leave accounts, dispose of settlement cases and maintain records for statistical purposes. Fourteen of the applicant-appellants detailed in annexure B of the affidavit are admittedly booth timekeepers who maintain attendance of the staff, job card particulars of the various jobs under operation, time-sheets of the staff working on various shops dealing with the production of railway spare parts, repairs, etc. Four of the applicant-appellants detailed in annexure C of the affidavit are head timekeepers, working in supervision of the applicant-appellants of the two other annexures.

Section 2(0) of the Act is as follows:

"worker" means a person employed, directly or through any agency whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of

work incidental to, or connected with, the manufacturing process or the subject of manufacturing process;

Under the Factories Act of 1934 the definition of the expression " worker " further said:

but does not Include any person solely employed in a clerical capacity in any room or place where no manufacturing process is being carried on;

In the definition of the expression " worker " in the Act of 1948, the aforesaid clause referring to persons employed in clerical capacity was deleted. The Court below has held that the plaintiff opposite parties are " workers " within the meaning of Section 2(1) of the Factories Act, 1948.

3. Learned Counsel strenuously contended that since the plaintiff opposite parties are not persons who are employed in any manufacturing process and their work is that of a clerical nature they do not come within the ambit of the definition of "worker" under the Act. He further argued that in the Act of 1934 the words in the definition were:

or in any other kind of work whatsoever incidental to or connected with manufacturing.

The word " whatsoever " does not find a place in the definition of " workers " under the Act of 1948.

4. Learned Counsel contended that only those persons whose work could be described as falling within the expression " manufacturing process" could properly be called workers. He further argued that the expression " in any other kind of work" must also relate to work connected with manufacturing process and therefore since the work of the plaintiffs was neither incidental to nor connected with any manufacturing process, they could not be properly described as " workers " within the meaning of the Act. Learned Counsel referred to a decision of the Bombay High Court in Ramlanshan Jageshar v. Bombay Gas Co. Ltd. 1961 1 L.L.J. 38, and a decision of the Supreme Court in Hira (B. P.)(Works Manager, Central Railway) v. Pradhan (C. M.) and Ors. 1959--11 L.L.J. 397. In the aforesaid case the Supreme Court did not give any decision on the question whether persons employed as timekeepers were workers within the meaning of the Act. The question was left open. In the Bombay case a person who was employed by a gas-manufacturing works as a coolie for excavating trenches outside the factory for laying pipes for transporting gas to consumers was not held to be a " worker " within the meaning of Section 2(j) of the Act. The circumstances of the aforesaid Ramlanshan case 1961--1 L.L.J. 38 were somewhat different. The Court, however, held that the person concerned was not employed " in connexion with gas while it is still in the stage of production." and, therefore, he could not be held to be a " worker" within the meaning, of Section 2(0) of the Act. The Court considered the nature of the work of the person concerned. It expressed the view that his work was required to be done in order

to supply to the consumers gas which had been produced and had no connexion at all with the manufacturing process. The Court appears to have taken the view that only those persons could be treated as workers who were engaged in the manufacturing process of gas and those persons who were employed in distributing it to the consumers would not fall within the ambit of the definition of "workers" under the Act. As mentioned above, the circumstances in the present case are different and it could not be said that the plaintiff-opposite parties before me are persons who are engaged in the type of work which begins after the work which could be treated as "manufacturing process" is finished and the work of distribution of what had been manufactured starts. I, therefore, need not say more with regard to the aforesaid Bombay decision.

5. In the present case it is true that the plaintiff opposite parties are not persons who had a direct hand in handling the machinery which is used in the workshop. They are, however, persons whose work could be said to be "incidental to or connected with the manufacturing process." The manufacturing work is done by persons who work in the workshop. Such work also requires persons who have to supervise the work of persons engaged directly in the manufacturing work. The time and duties performed by such persons has to be noted, because that is necessary not only for the supervision of the work but also for the payment of wages to such persons. Therefore, persons whose duty consists in working in the manner as done by the plaintiff opposite parties in the present case could be said to be persons whose work is incidental to or connected with the manufacturing process. The nature of the work has to be taken as a whole. The work of persons who are actually engaged in handling machines could not be done properly if there is lack of the necessary arrangements and regulations of their duties. Therefore, those persons who have to look after such supervisory work and to keep information regarding the work done by such persons would also be persons who would fall within the ambit of the definition of "worker" under the Act. In *Abdul Latif v. Karamat Ali* 1962-11 L.L.J. 335, Mithan Lal, J., had to consider whether a person who was employed as a munim in glass works could be said to be a worker within the meaning of the Act. It was observed (p. 336):

The definition (of "worker" in the Factories Act) not only includes a person employed in the manufacturing process but also includes a person employed in any other kind of work incidental to manufacturing process. Keeping of accounts of a factory is a work incidental to the manufacturing process and so the "munim" is definitely covered by the definition of the word "worker".

6. I respectfully agree with the view expressed by Mithan Lal, J., in the aforesaid case. The Court below rightly held that the work of the plaintiff opposite parties is incidental to or connected with the manufacturing work of the workshop. I see no reason to interfere with the aforesaid decision of the Court below.

7. The application in revision is rejected summarily.