

(1960) 09 BOM CK 0016
In the Bombay High Court
Case No : Industrial Revision No. 255 of 1959

Desraj

APPELLANT

Vs

Indian Hume Pipe Company, Ltd.

RESPONDENT

Date of Decision : 07-09-1960

Acts Referred:

Central Provinces and Berar Industrial Disputes Settlement Act, 1947 — Section 16

Citation : (1961) 1 LLJ 253

Hon'ble Judges : V.R. Paralkar, J

Bench : Single Bench

Judgement

1. This is an application for revision of the order passed by the Assistant Commissioner of Labour, Nagpur, in an application made before him by one Desraj under S. 16 of the Central Provinces and Berar Industrial Disputes Settlement Act, 1947 (hereafter called the Act). In his application, Desraj alleged that he had worked with the non-applicant company as an engineer, he was appointed in December 1955 and worked at Lucknow till 1956, from May 1956 till July 1959, he worked at Kanhan, he was then transferred to Cuttak where he worked from 19 July to 19 September. By a notice dated 19 September, his services were terminated by the company, on the ground that they were no longer required. He was offered three months' wages and other benefits due to him under the terms of agreement between him and the company. He, however, alleged that the discharge was in contravention of the provisions of the Act and claimed reinstatement.

2. The non-applicant alleged that the employer company was at Bombay. The termination of the services of the applicant took place at Cuttak, the dispute, if any, substantially arose at Cuttak and the Court would have no jurisdiction to try, entertain and proceed with the application.

3. The trial Court upheld the contention of the non-applicant and came to the conclusion that it had no jurisdiction. The application was accordingly dismissed.

4. Desraj has now filed this application for revision of the order passed by the trial Court. It is urged that the trial Court should have held that it had jurisdiction because the contract of service between the applicant and the company took place at Kanhan within the jurisdiction of the Court. A reference was made to a decision of this Court in Industrial Revision No. 95 of 1955 [Madhukar Dighe v. Dunlop Rubber Company, India, Ltd.], wherein it is observed :

"A Madhya Pradesh Court would have jurisdiction to decide a dispute when either the person who has power to appoint and dismiss him is in Madhya Pradesh or the employee is in Madhya Pradesh or when the contract of employment takes place within Madhya Pradesh or when the industrial dispute arises within Madhya Pradesh."

If neither the employee nor the employer were in Madhya Pradesh I doubt if the Madhya Pradesh Court would have jurisdiction merely because the contract of employment took place in Madhya Pradesh. But, even if it were so, on the material before the Court, it is difficult to conclude that the contract of service took place at Kanhan. It appears that the applicant who was already in service of the company continued to remain on certain renewed terms. A document containing the terms was sent to the applicant for being signed at Kanhan. Thereafter, it was sent to Bombay and signed and completed on behalf of the company. Merely because the applicant signed the document at Kanhan, it could not be said that the contract of service took place at Kanhan. The completed agreement took place only after company signed the document and accepted the applicant on terms specified in the document. It seems to me that the correct proposition of law is to be found in the observation of their lordships in the decision referred by the trial Court in Lalbhai Tricumlal Mills, Ltd. v. D. M. Vin and others 1956 L.L.J I 557 .

The observation of their lordships are :

"The Act does not deal with the cause of action, nor does it indicate what factors will confer jurisdiction upon the labour court. But applying the well-known tests of jurisdiction, a court or tribunal would have jurisdiction if the parties reside with, in jurisdiction or if the subject-matter of the dispute substantially arises within jurisdiction. And, therefore, the correct approach to this question is to ask ourselves - where did this dispute substantially arise - and in our opinion the only answer to that question can be that the dispute substantially arose in Bombay and not in Ahmedabad."

These observations show that the material question to be considered are :

- (i) where the parties reside, and
- (ii) where the dispute arose.

It is clear from admitted facts that at the time of his discharge or reduction, the applicant was at Cuttak and the authority that appointed him was at Bombay. The order terminating the service was issued from Bombay and delivered to the

applicant at Cuttak. It is therefore clear that neither the dispute arose nor did the parties reside within the jurisdiction of the trial court. It appears that during the course of his service for some time the applicant served at a place within the jurisdiction of the Court and affixed his signature to the agreement of service. But these would not be sufficient to confer jurisdiction upon the Court if at the time the dispute arose, both he and his employer were outside the jurisdiction. The conclusion of the trial Court is, therefore, correct.

5. This application fails and is dismissed with costs. Costs of the application are assessed at Rs. 25.