
(1960) 08 MAD CK 0011

In the Madras High Court

Case No : Civil Revision Petition No. 1079 of 1959

G. Venkatachalam Pillai

APPELLANT

Vs

Labour and Co. (Pte.) Ltd.

RESPONDENT

Date of Decision : 11-08-1960

Acts Referred:

Limitation Act, 1908 — Article 102, 7

Citation : AIR 1961 Mad 358

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Advocate : K.V. Srinivasa Iyer, for the Appellant; S. Sethuratnam and R. Shanmugham, for the Respondent

Final Decision : Allowed

Judgement

Srinivasan, J.—The petitioner as plaintiff sued for recovery of arrears of salary as well as leave salary due to him. He claimed to be a worker

in a soda factory on a salary of Rs. 40 per month. Apparently he was suspended from work for some reason or other and without the settlement of

his salary. He claimed such salary before the Labour Officer and in a statement made to the Labour Officer, the respondent, the factory, admitted

that according to the accounts of the company, a sum of Rs. 277-2-6 was liable to be paid to the plaintiff.

Thereafter the plaintiff sued the respondent company, and in addition to the arrears of salary, claimed to be entitled to a sum of Rs. 96, being leave

salary he was eligible for. One of the issues that arose for determination by the learned Subordinate Judge of Tiruchirapalli was whether the suit

claim was barred by limitation. On this question the learned Subordinate Judge came to the conclusion that Article 7 of the First Schedule to the

Limitation Act applied, and the suit not having been filed within a period of one year from the date when the wages accrued, the suit claim was barred by limitation. The plaintiff has moved this court in revision.

2. On the question of the application of Article 7 to the claim in this case, I am of the opinion that the learned Judge was in error. Article 7

describes the suit as ""for the wages of a household servant, artisan or laborer ""The other article that is relevant in this connection is Article 102

which is the residuary article, ""for wages not otherwise expressly provided for by this schedule"" and a period of three years is provided. Where

Article 102 applies, it is obvious that the claim would be taken out of Article 7 which purports to apply specifically to artisans, servants and

labourers. It accordingly becomes necessary to determine whether the plaintiff in this case was a household servant, artisan or labourer.

3. The first two classifications can be disregarded. The plaintiff does not come within either of these two. According to the defendant, it is claimed

that the petitioner is a mere labourer, whereas the plaintiff's contention is that not only was he entrusted with the duties of mixing sugar with water

for the purpose of preparing sodas and drinks, but he was also entrusted with the writing of accounts now and then, and with sales of aerated

water and drinks.

This statement of the plaintiff in his evidence has not been denied by D. W. L, the manager of the defendant company. It is true that D. W. L said

that the plaintiff was doing indoor work. But apart from that, there is no suggestion that either of the other duties which the plaintiff claimed he was

entrusted with was not made part of his duties. In considering the expression "labourer" which occurs in Article 7, in the absence of any definition,

I have been compelled to look into the dictionary. According to the dictionary meaning, this indicates a person who is engaged in the performance

of unskilled labour, generally speaking.

That this is so seems also to be established by certain decisions which do not require to be referred to in detail. A common feature that is

discernible in the decisions on the point is that a person who is called upon to do some work which requires some amount of skill, however little

that may be, is not to be regarded as a labourer. It seems to me, therefore that before Article 7 can be invoked in dismissal of the plaintiff's suit, it

must be established that the plaintiff is only a labourer. That is not the case here. It accordingly follows that the only Other article, that is, Article 102 will apply and the suit will then be in time.

4. On the question of the leave salary, the plaintiff's claim that he is entitled to 24 days' leave on full pay per year has been found against by the learned Subordinate Judge who took the view that the plaintiff could not accumulate more than 24, days in all for the length of his service. To this conclusion the plaintiff petitioner has no real answer. The plaintiff will therefore be entitled only to 24 days' leave salary. The order of dismissal of the suit is set aside and in its place will be substituted a decree limited for the amount of arrears of salary claimed, namely, Rs. 277-2-6 and leave salary for 24 days, that is, Rs. 32, together with interest thereon from the date of suit, and costs here and in the court below.