

(1985) 05 RAJ CK 0019

In the Rajasthan High Court

Case No : Civil Writ Petitions No. 722, 1177 and 1178 of 1981

Hanuman Prasad Choudhary and Others

APPELLANT

Vs

Rajasthan State Electricity Board and Others

RESPONDENT

Date of Decision : 20-05-1985

Acts Referred:

Apprentices Act, 1961 — Section 18, 2, 22, 4, 6

Constitution of India, 1950 — Article 14, 16

Employees State Insurance Act, 1948 — Section 2

Industrial Disputes Act, 1947 — Section 10, 2, 25F

Citation : (1985) 2 WLN 219

Hon'ble Judges : Suresh Chandra Agrawal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Suresh Chandra Agrawal, J.—These three writ petitions raise common questions for consideration and, therefore, they are being disposed of by a common order.

2. The Rajasthan State Electricity Board, respondent in these writ petitions (here in after referred to as "the Board") is a State Electricity Board constituted under the provisions of the Electricity (Supply,) Act, 1948. Section II of the Apprentices Act, 1961 (here in after referred to as "the Apprentices Act") imposes an obligation on every employer to engage apprentices and to provide training to them in his trade in accordance with the provisions of the said Act and the Rules made there under. In pursuance of the said obligation, the Board has been engaging trade apprentices for imparting training in various trades. The Board issued an advertisement in the year 1977 inviting applications for apprenticeship training and in response to the said advertisement the petitioners submitted their applications and they were selected. Thereafter the petitioners were engaged as trade apprentices in different trades in January/February, 1978 and the period of training was three-the years and in the first years of training they were to be paid Rs. 130/- per month, in the second year, they were to be paid Rs. 140/- per month and in the third year they were to be paid Rs. 150/- per month. The

petitioners-were also required to sign a contract of Apprenticeship and each of them signed the said contract. In the contract it was provided that it shall not be obligatory on the part of the Board to offer any employment to the apprentice on completion of the period of his apprenticeship training in its establishment nor shall it be obligatory on the part of the apprentice to accept an employment under the employer. Under the Apprentices Act and the Apprentices Rules, 1963 framed under the Apprentices Act (here in after referred to as "the Apprentices Rules"), an apprentice is required to pass the test conducted by the National Council for Training in Vocational Trades. Although the three years apprenticeship training period of the petitioners expired in January/February, 1981, they were continued as apprentice trainees beyond that period because the All India Trade Test was delayed and was held in April, 1981. The result of the said test was declared on 23rd June, 1981. Thereafter an order dated 9th July, 1981 was passed by the Asstt. Engineer of the Board whereby the services of Brij Mohan (petitioner in Civil Writ Petition No. 1178 of 1981) and Vijendra (petitioner in Civil Writ Petition No. 1177 of 1981) were discontinued with effect from 9th July, 1981. Feeling aggrieved by the aforesaid order dated 9th July, 1981, the said petitioners have filed Writ Petitions Nos. 1178 and 1177 respectively. In so far as Hanuman Prasad Choudhary and Prem Narain (petitioners in S.B. Civil Writ Petition No. 722 of 1981) are concerned, the said petitioners approached this court on 30th April, 1981 with the allegation that although they had not been served with the order terminating their services, but the Board was likely to consider that the said petitioners are deemed to be relieved from service from 30th April, 1981 and the said petitioners have prayed that an appropriate writ, order or direction may be issued restraining the Board from terminating the services of the petitioners as trade apprentices and that the Board may be directed to fix the petitioners in the regular pay scale No. 2 with effect from the date on which they successfully qualified the prescribed test. These writ petitions have been contested by the Board and the Board has filed a reply to the same.

3. The first contention that has been urged by Shri Kuhad, the learned counsel for the petitioners in all these writ petitions, was that the petitioners were workman u/s 2(s) of the Industrial Disputes Act, 1947 (here in after referred to as "the Industrial Disputes Act") and that they are entitled to the protection of the said Act. Shri Kuhad has submitted that the termination of the services of the petitioners amounts to retrenchment u/s 2(oo) of the Industrial Disputes Act and that the said retrenchment has been done in violation of the provisions of Section 25F of the Industrial Disputes Act, Shri Gupta and Shri Rastogi, the learned counsel for the Board have however submitted that the petitioners cannot invoke the protection of Section 25F of the Industrial Disputes Act, since they are not workman u/s 2(s) of the said Act. In view of the aforesaid submissions urged by the learned counsel, the question which needs to be determined is as to whether the petitioners fall within the ambit of the definition of "workman" as contained in Section 2(s) of the Industrial Disputes Act. Section 2(s) of the Industrial Disputes Act reads as under:

2(s) "Workman" means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed 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 Army Act, 1950 (46 of 1950), or the Air Force Act, 1950 (45 of 1950) or the Navy (Discipline) Act, 1954 (34 of 1954); 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 supervisory capacity, draws wages exceeding five 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.

4. At this stage reference may also be made to the relevant provisions of the Apprentices Act. The expression "apprentice" has been defined in Section 2(aa) of the said Act as under:

apprentice" means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship.

5. Section 18 of the Apprentices Act expressly lays down that the apprentices are trainees and not workers and provides as under:

18. Apprentices are trainees and not workers. Save as otherwise provided in this Act,

(a) Every apprentice undergoing apprenticeship training in a designated trade is an establishment shall be a trainee and not a worker; and

(b) the provisions of any law with respect to labour shall not apply to or in relation to such apprentice

6. In Section 22 it is provided as under:

22. Offer and acceptance of employment.--(1) It shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment nor shall it be obligatory on the part of the apprentice to accept an employment under the employer.

(2) Not with standing anything in Sub-section (1), where there is a condition in a contract of apprenticeship that the apprentice shall, after the successful

completion of the apprenticeship training, serve the employer, the employer shall, on such completion, be bound to offer suitable employment to the apprentice, and the apprentice shall be bound to serve the employer in that capacity for such period and on such remuneration as may be specified in the contract.

Provided that where such period of remuneration is not, in the opinion of the Apprenticeship Adviser, reasonable, he may revise such period or remuneration so as to make it reasonable, and the period of remuneration so revised shall be deemed to be the period of remuneration agreed to between the apprentice and the employer.

7. Shri Kuhad has submitted that apprentices have been expressly included within the definition of workman and, therefore, apprentices under the Apprentices Act have to be treated as workman under the Industrial Disputes Act. In this connection Shri Kuhad has placed reliance on the decision of the Supreme Court in *The Employees' State Insurance Corporation and Another Vs. The Tata Engineering and Locomotive Co. Ltd. and Another*,

8. In the *Employees State Insurance Corporation and Anr. v. The Tata Engineering and Locomotive Co. Ltd. and Anr.* (supra), the Supreme Court was dealing with the question as to whether an apprentice is an "employee" as the said expression is defined in Section 2(9) of the Employees' State Insurance Act, 1948. The Supreme Court after examining the scheme of the Apprentices Act as well as the Employees' State Insurance Act, has held that an apprentice is not an employee u/s 2(9) of the Employees State Insurance Act. In the said case the Supreme Court has observed as under:

The heart of the matter in apprenticeship is, therefore, the dominant object and intent to impart on the part of the employer and accept on the part of the other person learning under certain agreed terms. That certain payment is made during the apprenticeship, by whatever name called, and that the apprentice has to be under certain rules of discipline do not convert the apprentice to a regular employee under the employer. Such a person remains a learner and is not an employee. An examination of the provisions of the entire agreement leads us to the conclusion that the principal object with which the parties enter into an agreement of apprenticeship was offering by the employer an opportunity to learn the trade or craft and the other person acquire such theoretical or practical knowledge that may be obtained in the course of the training. This is the primary feature that is obvious in the agreement.

9. After referring to the definition of apprentice, as contained in the Apprentices Act, the Supreme Court has observed:

It is, therefore, inherent in the word "apprentice" that there is no element of employment as such in a trade or industry but only an adequate well-guarded provision for training to enable the trainee after completion of his course to be suitably absorbed in earning employment as a regular worker. The fact that a

trainee may have been absorbed in the company where he is undergoing the training, is not relevant for the purpose of comprehending the content of the terms.

The Supreme Court has further observed:

From the terms of the agreement it is clear that apprentices are mere trainees for a particular period for a distinct purpose and the employer is not bound to employ them in their works after the period training is over. During the apprenticeship they cannot be said to be employed in the work of the company or in connection with the work of the company. That would have been so if they were employed in a regular way by the company. On the other hand the purpose of the engagement under the particular scheme is only to offer training under certain terms and conditions. Besides, the apprentices are not given wages within the meaning of that term under the Act. If they were regular employees under the Act, they would have been entitled to additional remuneration such as daily allowance and other allowances which are available to the regular employees. We are, therefore, unable to hold that an apprentice is an employee within the meaning of Section 2(9) of the Act.

In the said decision the Supreme Court has taken note of Section 18 of the Apprentices Act as well as the definition of workman contained in Section 2(s) of the Industrial Disputes Act and the Supreme Court has also pointed out the distinction between the definition of "workman" as contained in Section 2(s) of the Industrial Disputes Act and the definition of "Employee" as contained in Section 2(9) of the Employees State Insurance Act and has observed that it was open to the legislature to enlarge the definition of the word "employee" to include an apprentice but the legislature did not choose to do so.

10. In view of the aforesaid decision, Shri Kuhad has submitted that even though there is no element of employment present in the contract of apprenticeship, but it was permissible for the legislature to enlarge the definition of "workman" under the Industrial Disputes Act to include an apprentice and that in Section 2(s) of the Industrial Disputes Act, the legislature has enlarged the definition of "workman" by expressly including an apprentice.

11. In my opinion the definition of "workman" as contained in Section 2(s) of the Industrial Disputes Act cannot be read in isolation and while construing the said provision, one cannot lose sight of the provisions contained in Section 18 of the Apprentices Act. The provisions of Section 2(s) of the Industrial Disputes Act were substituted by the Industrial Disputes (Amendment) Act, 1956. The Apprentices Act was enacted by Parliament thereafter. In Section 18 of the Apprentices Act, it has been expressly laid down that save as otherwise provided in the said Act, every apprentice undergoing apprenticeship training in a designated trade in an establishment shall be a trainee and not a worker. The said Section further lays down that the provisions of any law with respect to labour shall not apply to or in relation to such apprentice. This would show that

in Section 18 of the Apprentices Act the Parliament has unequivocally declared that a person who is an apprentice under the Apprentices Act is not a worker and the provisions of any law in respect of labour shall not apply to such a person. Industrial Disputes Act is undoubtedly a law with respect to labour in as much as it has been enacted for the investigation and settlement of industrial disputes and for certain other purposes mentioned therein. This would imply that in view of Section 18 of the Apprentices Act, provisions of the Industrial Disputes Act would not apply to the persons who are apprentices under the Apprentices Act. It would thus appear that there is apparent conflict between the provisions of Section 2(s) of the Industrial Disputes Act and Section 18 of the Apprentices Act in as much as Section 2(s) postulates that an apprentice is a workman to whom the provisions of the Industrial Disputes Act would be applicable whereas Section 18 of the Apprentices Act declares that an apprentice governed by the Apprentices Act is not to be treated as a workman and the provisions of the Industrial Disputes Act would not be applicable to him. In my view this conflict between the provisions of Section 2(s) of the Industrial Disputes Act and Section 18 of the Apprentices Act can be resolved by applying the principle of harmonious construction so that each provision may operate without encroaching on the field of the other.

12. Apprentices Act is not an exhaustive Act to cover all types of apprentices because in view of the definition of the term "apprentice" as contained in Section 2(aa) of the Apprentices Act, it is applicable only to persons who are undergoing apprenticeship training in pursuance of the contract of Apprentices executed u/s 4 of the said Act. It is possible to visualise persons who may be engaged as apprentices but who are not covered by the Apprentices Act. In this connection reference may be made to the Rajasthan State Electricity Board Technical Workman Service Regulations, 1975. In the said Regulations the term "workman" has been defined in Regulation 3(i) to include an apprentice. Regulation 5 contains the classification of the various types of workman governed by these Regulations and in clause (vi) of Regulation 5, the apprentice has been defined as under:

(vi) Apprentice: A learner, who is or is not paid an allowance during the period of his training including an Apprentice under the Apprenticeship Act, 1961.

13. This would show that an apprentice who is a workman under the said Regulations would include a person who may not be an apprentice under the Apprentices Act. In that view of the matter, it can be said that for the purpose of Section 2(s) of the Industrial Disputes Act a person who is designated as Apprentice but is not governed by the Apprentices Act would be workman governed by the provisions of the Industrial Disputes Act. But an apprentice who is governed by the provisions of the Apprentices Act, would not be workman u/s 2(s) of the Industrial Disputes Act and would not be governed by the provisions of the Industrial Disputes Act.

14. Apart from the aforesaid principle of harmonious construction, the conflict

between the provisions of Section 2(s) of the Industrial Disputes Act and Section 18 of the Apprentices Act can also be resolved by applying the principles of statutory interpretation that the operation of a prior general law may be curtailed by a subsequent particular law. Industrial Disputes Act is a general law applicable to all categories of workmen whereas the Apprentices Act is a particular law enacted with special reference to apprentice, The definition of workman in Section 2(s) of the Industrial Disputes Act was enacted in 1956 whereas the Apprentices Act was enacted in 1961. Section 2(s) of the Industrial Disputes Act is thus prior to the general law and Section 18 of the Apprentices Act is a subsequent particular law. The provisions of Section 18 of the Apprentices Act will, therefore, prevail over the provisions contained in Section 2(s) of the Industrial Disputes Act relating to apprentices and an apprentice governed by the Apprentices Act cannot be regarded as a workman u/s 2(s) of the Industrial Disputes Act.

15. It is true that in the *Employee State Insurance Corporation and Anr. v. The Tata Engineering & Locomotive Co. Ltd., and Anr.* (supra) the Supreme Court has referred to the inclusive definition of workman contained in Section 2(s) of the industrial Disputes Act and has pointed out that apprentice has been expressly included in the said definition. But in the said case the Supreme Court has not considered the definition of Section 2(s) of the Industrial Disputes Act in conjunction with the provisions of Section 18 of the Apprentices Act. In that case the Supreme Court was primarily concerned with the question as to whether an apprentice could be regarded as an "employee" u/s 2(9) of the Employees State Insurance Act, 1948. The aforesaid decision cannot be read as laying down that inspite of the provisions of Section 18 of the Apprentices Act, an apprentice governed by the Apprentices Act is to be treated as a workman u/s 2(s) of the Industrial Disputes Act. It must, therefore, be concluded that an apprentice governed by the Apprentice Act is not a workman for the purpose of the Industrial Disputes Act and the provisions of the Industrial Disputes Act would not be applicable to him.

16. Shri Kuhad has next submitted that even if an apprentice under the Apprentices Act is not to be regarded as a workman under the Industrial Disputes Act, the petitioners were workmen under the Industrial Disputes Act because on the date of the passing of the impugned order terminating their services, the petitioners had ceased to be apprentices and had become regular employees of the Board. In this connection the submission of Shri Kuhad was that under the contract of Apprenticeship the period of training was three years which expired in January/February, 1981 and that inspite of the completion of the aforesaid period of apprenticeship the petitioners were paid their emoluments till the passing of the impugned order and this would mean that the relationship of master and servant came into existence between the petitioners and the Board after the termination of the contract of apprenticeship in January/February, 1981. In my opinion there is no substance in the aforesaid contention. It is true that under the contract of apprenticeship the period of apprenticeship

training of the petitioners was three years from the date of joining and that the said period of three years expired in January/February, 1981. But u/s 7 of the Apprentices Act it is laid down that the contract of apprenticeship shall terminate on the expiry of the period of apprenticeship training. Provision with regard to the period of apprenticeship training is made in Section 6 of the Apprentices Act. In Sub-sections (a), (aa) and (b) of Section 6 the period of apprenticeship training for various categories of trade apprentices is prescribed and in respect of the trade apprentices who are not covered by Sub-sections (a) and (aa) provision is made in Sub-section (b) of Section 6 which lays down that the period of apprenticeship training for such trade apprenticeship shall be such as may be prescribed. The term ""prescribed" has been defined in Section 2(m) of the Apprentices Act to mean prescribed by rules made under the said Act. Since the petitioners are not covered by Sub-sections (a) and (aa) their case is covered by Sub-section (b) of Section 6 and the period of apprenticeship training in their case was to be as may be prescribed in the rules made under the Apprentices Act. Provision with regard to apprenticeship training for trade apprentices is contained in Rule 5 of the Apprentices Rules. Sub-rule (1) of Rule 5 prescribed the period for apprentices training in the various trades and for the trades for which the petitioners were engaged as apprenticed, the said period is the three years. Sub-rule (2) of Rule 5 reads as under:

Where a trade apprentice is unable to complete the full apprenticeship course within the period prescribed in Sub-rule (1) or to take the final test owing to illness or other circumstances beyond his control the establishment concerned shall extend the period of his apprenticeship until the next test is held if so required by the Apprenticeship Adviser. Similar extension of the period of training may also be allowed in the case of these trade apprentices who having completed the course, fail in the final test. A trade apprentice who fails in the second test shall not be allowed any extension of the period of training.

17. The aforesaid Sub-rule postulates that in cases where a trade apprentice is unable to complete full apprenticeship course within the period prescribed in Sub-rule (1) or to take final test owing to illness or other circumstances beyond his control, the establishment concerned shall extend the period of apprenticeship until he completes the full apprenticeship course and the next test is held, if so required by the Apprenticeship Adviser and that a similar extension of the period of training may also be allowed in the case of those trade apprentices who having completed the course, fail in the final test, and that the extension would not be allowed to a trade apprentice who fails in the second test. In other words Sub-rule (2) of Rule 5 postulates that the period of apprenticeship will be continued till the trainee appears in the final test and the result is declared and in case he fails in the said test, the said period can be extended till he appears in second test. In the present case even though three years period of apprenticeship training expired in January/ February, 1981, the final test was held only in the month of April, 1981 and the result was declared on 23rd June. 1981. The period of apprenticeship training of the petitioners could, therefore, be said to continue

till the result was declared on 23rd June, 1981. Shortly thereafter the order dated 9th July, 1981, was passed whereby Brij Mohan and Vijendra Singh (Petitioners in S.B. Civil Writ petition No. 1178/1981 and 1177/1981) were informed that their apprenticeship had been discontinued. In so far as Hanuman Prasad and Prem Narain (Petitioners in S.B. Civil Writ Petition No. 722/1981) are concerned, the said petitioners approached this Court on 30th April, 1981 before the result of final test was declared. It cannot, therefore, be said that the relationship of master and servant had come into existence between the petitioners and the Board as a result of payment of the allowance to them after the expiry of the period of three years of the apprenticeship training as mentioned in the contract of apprenticeship. The petitioners cannot, therefore, be treated as workmen of the Board.

18. Since the Petitioners were not workmen u/s 2(s) of the Industrial Disputes Act. they cannot invoke protection of Section 25F of the said Act and the impugned orders cannot be assailed on the ground that the same were passed in contravention of the provisions of Section 25F of the Industrial Disputes Act. The first contention urged by Shri Kuhad is, therefore, rejected.

19. The second contention urged by Shri Kuhad was that the petitioners were entitled to be absorbed in the Board's service in regular pay scale No. 2 on satisfactory and successful completion of their apprenticeship as per prescribed period and the prescribed examination/test in the very first attempt, in view of para 22 of the Arbitration Award dated 15th June, 1979 given by Serva Shri Prithvi Singh and A.L. Sancheti as arbitrators made u/s 10(B) of the Industrial Disputes Act. In this context it may be mentioned that by an agreement dated 19th December, 1977 made between the Board and the General Secretary Prantiya Vidyut Mandal Mazdoor Federation, the following matters under dispute were referred to the arbitrators u/s 10B(1) of the Industrial Disputes Act:

(1) To decide the principles to regulate fixation/adjustment/promotion of all technical workmen of the Rajasthan State Electricity Board in respect of the following periods:

(i) From 1-4-1968 to 31st March, 1977, who have completed a continuous service of 2 years or more by 31st March, 1977.

(ii) In respect of all the technical workmen from 1-4-1977 and onwards.

(2) To decide/frame the procedure/regulations for recruitment and promotion of all technical workmen to come into force w.e.f. 1-4-1977.

In para 22 of the Award the Arbitrators considered the cases of apprentices/trainees and the relevant portion of the said para on which reliance has been placed by Shri Kuhad is as under:

(iii) In respect of such of the Apprentices as had not obtained ITI Certificate but had been taken as Apprentices under the Apprentices Act, 1961 for both the Plant and institutional training may be continued in the Board's service by

allowing regular pay scale No. 2 on satisfactory and successful completion of the apprenticeship as per prescribed period and the prescribed examination/tests in the very first attempt. Allowing of pay scale No. 2 would commence from the date he is declared successful in the prescribed examination/tests. It is to prescribe that such fixation shall be in addition to the posts in pay scale two created or to be created as upto 31st March, 1979 on the basis of norms as referred to herein and that they should be taken as a Leave Reserve and/or taken into consideration in a fixing the nucleus of the EHT, Wing provided they have been in the EHT trade. It is further prescribed that in the direct recruitment quota for the pay scale No. 3, these persons may be made eligible to compete irrespective of minimum prescribed by the management for regulating promotion from pay scale No. 2 to pay scale No. 3. In addition to this, the treatment prescribed at (ii) above is to be extended to this category also.

20. Shri Kuhad has submitted that this Award made by the Arbitrator on a reference u/s 10B of the Industrial Disputes Act is binding on the Board and in terms of para 22(iii) of the Award, the petitioners are entitled to be absorbed in the service of the Board in regular pay scale No. 2 because they had completed the apprenticeship satisfactorily and successfully and have also passed the prescribed examination/tests in the very first attempt. Shri H.P. Gupta and H.C. Rastogi the learned counsel for the Board have however submitted that the aforesaid part of para 22 of the Award relating to apprentice governed by the Apprentices Act, is without jurisdiction in as much as the apprentices governed by the Apprentices Act were not workmen u/s 2(s) of the Industrial Disputes Act and their cases were not covered by the disputes referred to the Arbitrators. I find considerable force in the aforesaid submissions urged by the learned counsel for the Board. Since I have already held that apprentices governed by the Apprentices Act, are not workmen u/s 2(s) of the Industrial Disputes Act, no industrial dispute relating to such apprentices could be raised u/s 2(k) of the Industrial Disputes Act and the case of such apprentices cannot be said to be covered by the disputes which were referred to the arbitrators u/s 10B of the Industrial Disputes Act. In making the award in relation to the apprentices governed by the Apprentices Act, the Arbitrators exceeded the jurisdiction that was vested in them by virtue of the reference made to them u/s 10B of the Industrial Disputes Act and the said part of the Award cannot have binding force under the Industrial Disputes Act and the petitioners cannot claim any enforceable rights on the basis of the aforesaid Award made by the Arbitrators.

21. Shri Kuhad has lastly contended that the Board has acted arbitrarily in the matter of terminating the services of the apprentices after completion of the period of apprenticeship and that certain apprentices have been allowed to continue, whereas services of the petitioners have been discontinued. In this connection Shri Kuhad has invited my attention to the additional affidavit: of Vijendra Singh filed in S.B. Civil Writ petition No. 1177 of 1981 wherein it has been stated that by order dated 10th August, 1981 passed by the Assistant Engineer (O & M), RSEB, Sri Madopur, the services of one Pokharmal Apprentice

have been restored on the basis of the order dated 25th July, 1981, whereby the Personnel Officer (SC) of the Board at Sikar informed the Assistant Engineer that order dated 20th November, 1980 does not apply to apprentices in his sub-division and that action should be taken under the order of the Director of Personnel dated 18th February, 1981. A reply has been filed on behalf of the Board to the aforesaid additional affidavit of Shri Vijendra Singh. In the said reply it has been stated that the order dated 10th August, 1981 has been passed by the Assistant Engineer (O & M), RSEB, Sri Madhopur by mistake in as much as he has misinterpreted the letter dated 25th July, 1981. In the said reply it has been further stated that by letter dated 25th July, 1981 sent by the Personnel Officer to the Assistant Engineer, it was made clear that the order dated 20th November, 1980 does not apply to apprentice including Shri Pokharmal and that action was required to be taken under order No. 224 dated 18th February, 1981 of the Director of the Personnel of the Board, Jaipur, in the said reply it has been further stated that under order dated 18th February 1981 it was made clear that training period of apprentices was extended upto 30th April, 1981 since the apprentices were required to appear in the National Trade Test examination which was to be held in the month of April 1981 and that in view of the said order, the Assistant Engineer was required to extend the training period only upto 30th April, 1981 or upto the declaration of the result of the examination of the trade test which was declared in the month of June, 1981. The Assistant Engineer of the Board at Sri Madhopur was required to terminate the training of Shri Pokharmal in pursuance of the order dated 18th February, 1981. But he misinterpreted the orders and passed the order dated 18th August, 1981 under which Pokharmal was taken back as Apprentice. In the said reply it has also been stated that Shri Pokharmal has not been taken in the service of the Board as yet and by mistake he has been continued to be a trainee and is being paid till now the stipend but he has not been fixed in any of the scales. From the aforesaid reply filed on behalf of the Board, it is evident that the order dated 10th August, 1981 that was passed by the Assistant Engineer of the Board at Sri Madhopur was passed under a mistake and it proceeds on a misinterpretation of the orders of the Officers of the Board and it cannot be said that the Board has arbitrarily discriminated between the petitioners on one hand and Shri Pokharmal on the other in the matter of continuance after the expiry of the period of apprenticeship. The continuance of Shri Pokharmal on the basis of order dated 10th August, 1981 under a mistake, does not mean that the Board has contravened the provisions of Articles 14 and 16 of the Constitution.

22. No other contention was urged by Shri Kuhad.

23. In the result the writ petitions fail and they are hereby dismissed but with no order as to costs.