
(1991) 08 P&H CK 0079
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 6371 of 1989

Harjinder Singh

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 30-08-1991

Acts Referred:

Industrial Disputes Act, 1947 — Section 2

Citation : (1992) 65 FLR 108 : (1993) 1 LLJ 68 : (1992) 101 PLR 121

Hon'ble Judges : R.S. Mongia, J

Bench : Single Bench

Advocate : Raman Mahajan, for the Appellant; R.C. Setia, Addl. Advocate, for the Respondent

Final Decision : Allowed

Judgement

R.S. Mongia, J.—The petitioner was appointed as an Electrician on June 20, 1978 in the Industrial Development Centre for Tools and Dies, Jagadhri, on daily wage basis. His services was terminated with effect from November 7, 1983. The petitioner raised an industrial dispute and the matter was referred by the Government for adjudication to the Labour Court at Ambala. The Labour Court, while holding that the termination of the services of the petitioner was in violation of Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act") came to the conclusion that the respondent-Industrial Development Centre is not an industry, and, consequently, did not give any relief to the petitioner. Aggrieved by the said award, the workman-petitioner has come up in the present writ petition.

2. The plea of the management, which had found favour with the learned Labour Court, was that the Industrial Development Centre had no profit-making motive and its only object was to provide facilities for design, development and fabrication of items like dies, gouges, jigs, tools, etc., to the industries which had no provision for such specialised jobs in their own works.

3. Learned counsel for the petitioner submits on the basis of a brochure of the Industrial Development Centre, which has a foreword by the Commissioner and Secretary to the Government of Haryana, Department of Industries, that the Industrial Development Centers provide technical guidance, testing and certification facilities in evaluating products as per national and international standards. It has further been mentioned that the State Government through these Centers provide various services and facilities such as heat treatment, anodizing, tool rooms and further some of these Centers had been set up with the support of the Government of India, keeping in view the development in the field of electronics. Further, this brochure mentions the schedule of charges which are levied on the persons using the facilities. According to learned counsel, the work which is carried out in the Industrial Development Centers clearly brings the Centre under the definition of an "industry" as defined under the Act. According to learned counsel, in fact, the Centre is making a profit, but, in any case, he submitted that even if no profit is made by the Centre, this fact alone will not take out the Centre from the definition of "industry".

4. Learned counsel appearing on behalf of the respondent, on the other hand, submitted that the Centre was only giving the facilities of "know-how", where the industrialists who were manufacturing certain items could get their things tested and there being no profit motive, the Centre would not fall under the definition of "industry". For this proposition, he relied upon a judgment of the Allahabad High Court, reported as Ramesh Chandra Singh v. Union of India, (1981) Lab IC 781. The case before the Allahabad High Court was of a technical institute giving advantage of its research, know-how and skill to an industry, not on profit but only on payment. It was held under these circumstances that technical institute would not fall under the definition of "industry". However, in the present case, it is not so. As has been mentioned in the earlier paragraph that, these Centers provide technical guidance, testing and certification facilities, apart from providing services and facilities such as heat treatment, anodizing, etc., and also charge money for the use of various machines on hourly basis. Section 2(j) of the Act defines "industry" in the following terms:

"Industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen."

It is apparent from the above definition that the term "industry" is of a very wide connotation. The job which is carried out at the Centres would certainly be industrial occupation or avocation of workmen and the work at the Centre is carried out in a systematic manner by workmen. Consequently, I hold that the Labour Court was not correct that the Industrial Development Centre is not an industry.

5. Now the question that arises is as to what relief the petitioner is entitled to under the circumstances of the case. Of course, the Labour Court has held that the petitioner's termination was in violation of Section 25F of the Act, however, it

has not been suggested by counsel for the petitioner that though the termination was in violation of Section 25F, it was not justified. It has also not been suggested that any person in place of the petitioner was employed after the petitioner's termination. Added to this fact is that the respondents were of the view that the Centre is not an industry and their view found favour with the Labour Court. Their thinking that Centre was not an industry was not such that the same was not plausible, inasmuch as even a Labour Court, having judicious mind, also came to such a conclusion. For all these reasons, I am not prepared to give back wages to the petitioner, while ordering his reinstatement.

6. For the foregoing reasons, this writ petition is allowed, the award of the Labour Court to the extent it holds that the Industrial Development Centre is not an industry, is reversed and the petitioner is held entitled to reinstatement into service without any back wages. However, the petitioner would have the benefit of continuity of service. There will be no order as to costs.