
(2011) 10 MP CK 0060
In the Madhya Pradesh High Court
Case No : Writ Petition No. 2055 of 2001

Ishwarlal Ramhariya and another

APPELLANT

Vs

New India Assurance Co. Ltd. and others

RESPONDENT

Date of Decision : 13-10-2011

Acts Referred:

Industrial Disputes Act, 1947 — Section 2

Citation : (2011) 131 FLR 1053

Hon'ble Judges : Tarun Kumar Kaushal, J; Sanjay Yadav, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Sanjay Yadav and T.K. Kaushal, JJ.—Shri Rohit Arya, learned Senior Counsel with Shri Anubhav Jain, learned Counsel for the petitioner.

Shri Anoop Nair, learned Counsel for respondents.

2. Petition is directed against the award dated 15.1.2001 passed by the Central Government Industrial Tribunal-cum-Labor Court Jabalpur, whereby the Tribunal has declined to entertain the reference as to "whether the action of the management of New India Assurance Co. Ltd., in terminating the service of Shri Ishwarilal Ramhariya w.e.f. 18.11.1993 is justified? If not, what relief the workman is entitled for?" on the ground that the petitioner being a Development Officer in the New India Assurance Co. is not a workman u/s 2(s) of the Industrial Disputes Act, 1947.

3. The opinion formed by the Tribunal is on the basis of the decision by the Constitutional Bench in H.R. Adyanthaya v. Sandoz (India) Ltd., 1994 (69) FLR 593 (SC) whereby an earlier decision in S.K. Verma v. Mahesh Chandra and another, 1983 (47) FLR 313 (SC) wherein a Development Officer of an Insurance Company was held to be a workman, was held being per incuriam.

4. Later on in Mukesh Kumar Tripathi v. Sr. Divisional Manager L.I.C. and others

2004 (103) FLR 350 (SC) the verdict in H.R. Abyanthays (supra) was followed for the reasons that an Apprentice Development Officer cannot be equated with the Development Officer and, therefore, cannot be termed as workman.

5. Still, later in LIC of India Vs. R. Suresh, it is held:

29. A Development Officer has been held, to be a "workman" in S.K. Verma. We, however, are not unmindful of a decision of a three-Judge Bench of this Court in Mukesh K. Tripathi v. LIC 2004 (103) FLR 350 (SC) wherein one of us (Sinha, J.) was a member, where the question was as to whether an apprentice would be a workman within the meaning of the provisions of section 2(s) of the 1947 Act. It is not a case where case of an apprentice is involved.

6. The said verdict in R. Suresh (supra) in our considered opinion clinches the issue which crops up for consideration in the present case as to whether the Development Officer of an Insurance Company can be a workman u/s 2(s) of 1947 Act.

7. In view whereof the decision rendered by the Tribunal not to entertain the reference/individual dispute at the instance of the Development Officer of an Insurance Co. is not tenable. Therefore, the Award dated 15.1.2001 is quashed.

8. Matter is remitted to the Tribunal for its decision on merit. Since the termination is of the year 1997, we request the Tribunal to decide the same as expeditiously as possible, preferably within six months from the date of communication of this order. We expect the parties to co-operate, to facilitate an early disposal.

9. Parties to appear before the Tribunal on 14.11.2011. No fresh notice be issued by the Tribunal for that.

The petition is allowed to the extent above. No costs.