

(1986) 02 AHC CK 0061

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No"s. 6225, 6274 , 6276, 6277, 6278 and 6279 of 1983, 14367, 15425, 15426, 15427, 15430, 15433, 15435 and 15436 of 1984 and 7983, 7984 and 7989 of 1985

Municipal Board

APPELLANT

Vs

The Appellate Authority and Additional Labor Commissioner
and Others

RESPONDENT

Date of Decision : 21-02-1986

Acts Referred:

Payment of Gratuity Act, 1972 — Section 1(3), 14
Uttar Pradesh Municipalities Act, 1916 — Section 70, 70(3)

Citation : (1986) 02 AHC CK 0061

Hon'ble Judges : R.M. Sahai, J

Bench : Single Bench

Advocate : K.B. Garg, for the Appellant;

Final Decision : Dismissed

Judgement

R.M. Sahai, J.—In these petitions filed by Municipal Board Khurja the question that arises for consideration is if the Municipal Board is an establishment within the meaning of Section 1(3) (b) and (c) of Payment of Gratuity Act, 1972. Further even if it was establishment were its employees prevented from claiming gratuity because they had participated in the benefit of Provident Fund.

2. Sub-section (3) of Section 1 of Payment of Gratuity Act 1972 reads as under:

(3) It shall apply to-

(a) every factory, mine, oil field, plantation, port and railway company ;

(b) every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months ;

(c) such other establishments or class of establishments, in which ten or more employees are employed, or were employed, on any day of the preceding twelve months ; as the Central Government may, by notification, specify in this behalf.

Provisions of the Act, therefore, are applicable to an establishment, employing ten or more persons. The word has not been defined in the Act. Blacks has defined it as " Place of business, Public institution ". The meaning thus is very wide. The objective of the Act is to give some benefit to retired employees. It is a part of social justice which is yet to take complete shape in our country. Such legislations have to be applied liberally and given a wider meaning. In Civil Misc. Writ No. 9049 of 1985 Municipal Board Pilkhuwa Ghaziabad v. Additional Labor Commissioner decided on 23rd August 1985 See 1985 AWC 947 a learned Single Judge of this Court held that a Municipal Board was establishment both because business was to be understood in the wider sense and in the definition of employer a local authority was included.

3. Reliance has been placed on the University of Delhi and Another Vs. Ram Nath, but the decision was over-ruled in Bangalore Water Supply v. A Rajappa AIR 1978 SC 549. As regards Nagpur Corporation v. Its Employees AIR 1960 SC 675 it was held that departments of Nagpur Corporation which rendered service were entitled to the benefit under Industrial Disputes Act. In Vinai Kumar v. Assistant Lab our Commissioner, 1981 Vol. II Lab our and Industrial Cases 1433 it was held by this Court that doctor's clinic would be an establishment to which provisions of Gratuity Act would be applicable. In Principal S.D. Kanya Vidyalaya Jammu v. Authority under the Payment of Gratuity Act, 1983 Vol. II, Lab our and Industrial Cases 1243 the Private educational institutions were held to be establishment under J. and K. Shops Establishment Act, to which provisions of Payment of Gratuity Act applied. If a doctor's clinic or private educational institution can be said to be covered in word "establishment" there is no reason to hold a Municipal Board shall not be covered in this definition.

4. Learned Counsel argued that even if Municipal Board is an establishment the opposite parties could not claim any benefit as Sub-section (3) of Section 70 of U.P. Municipalities Act specifies that a person who participates in Provident Fund benefit shall not be entitled to gratuity. The argument stands answered by Section 14 of the Gratuity Act which has an over-riding effect and provides for giving effect to provisions of the Act notwithstanding anything inconsistent therewith contained in any Act.

5. In the result all these petitions fail and are dismissed. Parties shall, however, bear their own Costs.