Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 05/09/2026

(1961) 08 P&H CK 0034

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 1024 of 1956

Municipal Committee APPELLANT

Vs

Chaman Lal RESPONDENT

Date of Decision : 23-08-1961

Acts Referred:
Punjab Municipal Act, 1911 — Section 61, 61(1)

Citation : (1962) 1 ILR (P&H) 451

Hon'ble Judges : Harbans Singh, J

Bench : Single Bench

Advocate : K.C. Nayyar, for the Appellant; S.L. Puri, for the Respondent

Final Decision : Dismissed

Judgement

Harbans Singh, J.—Municipal Committee Rupar passed a resolution imposing tax on every person carrying on a "trade, profession, calling or employment" in the area of the municipal committee, and the Punjab Government by a notification, dated 15th of October, 1948, Exhibit D. 5, notified the imposition of the above-mentioned tax. A schedule was attached to that giving a list of trades, professions, callings and employments which were to be taxed and a sliding scale was fixed for those whose income exceeded Rs. 600 per annum. Chaman Lal Respondent, who was working as a clerk in the local branch of the Punjab National Bank, Limited, was served with a notice to pay Rs. 15 as tax for the year 1952-53. Apparently, his income exceeded Rs. 800 but did not exceed Rs. 1,000. On his failure to make the payment, warrants were got issued for the recovery of the same. He brought the suit, out of which: the present appeal has arisen, challenging the authority of the municipal committee to impose such a tax. There were two points on which the suit was fought in the trial Court; first that under Clause (b) of Sub-section (1) of Section 61 of the Punjab Municipal Act tax could be imposed only on "persons practising any profession or art or carrying on any trade or calling in the municipality". It was urged that employment in a private company did not fall in any of these categories. By the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/municipal-committee-appellant-hash...

explanation added to this Clause (b) "persons who were in the service of the Government or persons holding an office under the State Government or the Central Government or a local or other public authority" were deemed to be practising a profession within the meaning of this clause. It was urged that this explanation dealt specifically with persons in the employment of Government or a local body and impliedly excluded others who were employed in privte companies or firms. The second point urged was that, in any case, Chaman Lal Plaintiff did not fall in any one of the categories mentioned in the schedule of trade, profession, calling and employment. The only category in which he could fall was "the superior servants of a private company or firm". Both the Courts below hold that employment in a private company did not fall within the purview of "practising any profession or art or carrying on any trade or calling" as provided in Clause (b). It was " further held that Chaman Lal being a mere clerk could not be said to be a superior servant of a private company and further that the Punjab National Bank was not a private company but a public limited company. In view of the above the suit of the Plaintiff seeking the declaration was decreed. The municipal committee has come up in appeal.

2. So far as the first question is concerned, the same is concluded by a judgment of a Division Bench of this Court reported in Walaiti Ram v. The Municipal Committee, Rupar 1960 P.L.R. 816, An identical matter was referred by me to a Division Bench and it was held that servants of private companies came within the scope of the taxing provisions contained in Section 61 of the Punjab Municipal Act.

3. The only point that remains for consideration, therefore, is whether the Plaintiff-Respondent falls within the category of a superior servant of a private company or a firm. One thing is obvious that the expression "private company" as used is distinguished from a company or corporation in the public sector belonging to the Government. The words used are not ''private limited company''. It is only in the Indian Companies Act that a distinction is made between ''a private limited company'' and ''a public limited company'' but the words ''private company'' when used otherwise mean a company managed by private individuals and not by the Government. In the ordinary parlance a clerk drawing less than Rs. 100 a month cannot be said to be a superior servant of a private company, but when the entire schedule is persued we find that in the last category ''private or menial servant of a private company or firm'' is also included amongst the persons who are liable to pay the tax. In view of this, it appears that the words ''superior servant'' in the first category are used in contradistinction to the menial servants of a private company. Looking through the entire schedule it appears that the intention of the municipal committee and of the Government was to tax everybody provided his income exceeded Rs. 600, and it would be giving a very narrow interpretation to the words ''superior servant'' if it is held, as has been done by the Courts below, that these words exclude clerks. I am. therefore, of the view that the clerks are included in the category of superior servants as distinct from menial servants or, as they are

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/municipal-committee-appellant-hash…

called, class IV servants when they are employed by the Government or the local bodies.

4. In view of the above, therefore, I accept this appeal, set aside the orders of the Courts below and dismiss the suit of the Plaintiff. In view, however, of the fact that the, point was not free from difficulty, the parties are left to bear their own costs throughout.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/municipal-committee-appellant-hash…