
(2005) 04 MP CK 0026

In the Madhya Pradesh High Court

Case No : Writ Petition No's. 3251 and 3252 of 2000

Project Director, District Literacy Samiti

APPELLANT

Vs

Ms. Mamta Shrivastava and Another

RESPONDENT

Date of Decision : 04-04-2005

Acts Referred:

Industrial Disputes Act, 1947 — Section 2, 25F

Citation : (2005) 4 MPHT 396 : (2005) 3 MPLJ 297

Hon'ble Judges : A.K. Shrivastava, J

Bench : Single Bench

Advocate : D.S. Thakur, for the Appellant; Arvind Shrivastava, in W.P. No. 3252/2000 and Suyash Tripathi, in W.P. No. 3251/2000, for the Respondent

Final Decision : Allowed

Judgement

A.K. Shrivastava, J.

These two petitions are filed against the Award dated 20-10-1999 passed by the Labour Court, Rewa. The dispute of respondent No. 1 was referred to the Labour Court and it was registered as Case No. 3/ID Act (Ref.)/99 (Sushri Mamta Shrivastava v. Project Director, Distt. Literacy Samiti) and the dispute of respondent No. 1 of Writ Petition No. 3251/2000 was referred to the Labour Court, was registered as Case No. 5/ID Act (Ref.)/99 (Ramkali Verma v. Project Director, Distt. Literacy Samiti) by the Labour Court.

In both the orders, the Labour Court found that since the workmen had worked continuously for a period of 240 days in a calendar year, therefore, their termination amounts to retrenchment and as the provisions of Section 25F of the ID Act, 1947 (hereinafter referred to as "the Act") are not followed, their termination amounts to retrenchment and they are entitled for reinstatement with 50% back wages. Hence this petition.

In this petition, it has been contended by learned Counsel for the petitioner that in order to eradicate the illiteracy, Central and State Governments framed

Scheme under the Saksharata Mission and Adult Education Programme. Under the said scheme the petitioner-Samiti was established under the M.P. Registrikaran Adhiniyam, 1973. The contention of learned Counsel for the petitioner is that Annexure P-1 is the entire scheme under which for the year 1994-96 the Samiti took the task to eradicate the illiteracy in Rewa District. Learned Counsel has invited my attention to Page 11 of the said scheme and has contended that this scheme was enforced from June, 1994 to September, 1995. Learned Counsel has further invited my attention to Page 21, Chapter-16 of Annexure P-I which shows the provisions in regard to the accounts. The funds were also provided only for 18 months. The contention of learned Counsel is that the petitioner-Samiti can not be said to be an "Industry" as defined u/s 2(j) of the Act. Since the petitioner- Samiti is not an Industry, respondent No. 1 can not be said to be a workman as defined u/s 2(s) of the Act.

On the other hand, it has been contended by learned Counsel for respondent No. 1 that since their services were taken to eradicate the illiteracy, therefore, the petitioner-Samiti is a school. Even otherwise, it can not be said that the petitioner- Samiti is not an "Industry" The finding of Labour Court is that respondent No. 1 had worked continuously for a period of 240 days in a calendar year, therefore, the termination amounts to illegal retrenchment and the Labour Court has rightly passed the award.

After having heard learned Counsel for the parties, I am of the view that these petitions deserves to be allowed.

On going through Annexure P-1, it is clear that in order to eradicate the illiteracy from June, 1994 to September, 1995, the scheme was framed. The budget is also limited and is for 18 months only. The aim and object of the petitioner-Samiti is to promote the work in order to eradicate the illiteracy and for that purpose services of respondent No. 1 were obtained. In the case of Physical Research Laboratory Vs. K.G. Sharma, , similar type of question arose before the Supreme Court and the Apex Court, in Paras 8, 12 and 13 held as under:

"8. Therefore, the question whether PRL is an "industry" under the I.D. Act will have to be decided by applying the above principles; but, at the same time it has to be kept in mind that these principles were formulated as this Court founds the definition of the word "industry" vague and "rather clumsy, vaporous and tall-and-dwarf". Therefore, while interpreting the words "undertaking", "calling" and "service" which are of much wider import, the principle of "noscitur a sociis" was applied and it was held that they would be "industry" only if they are found to be analogous to trade or business. Furthermore, an activity undertaken by the Government can not be regarded as "industry" if it is done in discharge of its sovereign functions. One more aspect to be kept in mind is that the aforesaid principles are not exhaustive either as regards what can be said to be sovereign functions. One more aspect to be kept in mind is that the aforesaid principles are not exhaustive either as regards what can be said to be sovereign functions or as regards the other aspects dealt with by the Court.

PRL is an institution under the Government of India's Department of Space. It is engaged in pure research in space science. What is the nature of its research work is already stated earlier. The purpose of the research is to acquire knowledge about the formation and evolution of the universe but the knowledge thus acquired is not intended for sale. The Labour Court has recorded a categorical finding that the research work carried on by PRL is not connected with production, supply or distribution of material goods or services. The material on record further discloses that PRL is conducting research not for the benefit or use of others. Though the results of the research work done by it are occasionally published they have never been sold. There is no material to show that the knowledge so acquired by PRL is marketable or has any commercial value. It has not been pointed out how the knowledge acquired by PRL or the results of the research occasionally published by it will be useful to persons other than those engaged in such type of study. The material discloses that the object with which the research activity is undertaken by PRL is to obtain knowledge for the benefit of the Department of Space. Its object is not to render services to others so in fact it does so except in an indirect manner.

It is nobody's case that PRL is engaged in an activity which can be called business trade or manufacture. Neither from the nature of its organisation nor from the nature and character of the activity carried on by it, can it be said to be an "undertaking" analogous to business or trade. It is not engaged in a commercial industrial activity and it can not be described as an economic venture or a commercial enterprise as it is not its object to produce and distribute services which would satisfy wants and needs of the consumer community. It is more an institution discharging Governmental functions and a domestic enterprise than a commercial enterprise. We are, therefore, of the opinion that PRL is not an industry even though it is carrying on the activity of research in a systematic manner with the help of its employees as it lacks that element which would make it an organisation carrying on an activity which can be said to be analogous to the carrying on of a trade or business because it is not producing and distributing services which are intended or meant for satisfying human wants and needs, as ordinarily understood."

Ultimately the Apex Court came to the conclusion that the workmen of the Physical Research Laboratory (PRL) are not the workmen because PRL is not an "Industry". In the present case, also this Samiti can not be stretched to the extent in order to include it under the definition of "Industry". Here also it is nobody's case that the petitioner-Samiti is engaged in an activity which can be called business, trade or manufacture. On going through the scheme it can not be gathered that the activity carried out by it, can be said to be an "undertaking" analogous to business or trade. No where it is the case of respondent No. 1 that the petitioner-Samiti is engaged in a commercial, industrial activity and, therefore, petitioner-Samiti can not be described as an economic venture or a commercial enterprise as it is not its object to produce and distribute services which would satisfy wants and needs of the consumer community. The petitioner-

Samiti is only prompting the scheme to eradicate illiteracy. Thus, according to me, District Literacy Samiti is not an "Industry" even though it is achieving its target to eradicate the illiteracy in a systemic manner with the help of its employees.

In this view of the matter, since the petitioner-Samiti is not an "Industry", respondent No. 1 can not be said to be a workman and, therefore, the Award passed by the Labour Court is hereby set aside. The petition is hereby allowed. The parties are directed to bear their own costs.