
(2014) 02 P&H CK 0130
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 12878 of 1993

Punjab Wakf Board

APPELLANT

Vs

Controlling Authority

RESPONDENT

Date of Decision : 13-02-2014

Acts Referred:

Payment of Gratuity Act, 1972 — Section 1(3), 1(3)(b)
Payment of Wages Act, 1936 — Section 2(ii)(g)

Citation : (2014) 141 FLR 755 : (2014) LabIC 1965 : (2014) 175 PLR 9

Hon'ble Judges : Bharat Bhushan Parsoon, J

Bench : Single Bench

Advocate : S.K. Pipat and Manoj Pundir, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Dr. Bharat Bhushan Parsoon, J.—Sole question to be answered in this petition is as to whether the Payment of Gratuity Act, 1972 (hereinafter referred to as the 1972 Act) applies to the employees of the petitioner-Punjab Wakf Board or not?

There is no denying the fact that the petitioner is a statutory body. The Wakf Act, 1954 (hereinafter referred to as the 1954 Act) is applicable to the petitioner. Wide powers and functions of the Board are transacted in compliance with the provisions of this Act. For superintendence, maintenance, control and administration of the Wakfs as also their income, many officials are employed. They discharge their duties for achieving aims and objects of the petitioner in terms of provisions of the 1954 Act.

On an application moved by respondent No. 3 Krishan Dev for payment of gratuity, the Controlling Authority-respondent No. 1 passed an order (Annexure P-1) on 13.12.1991 in his favour. Appeal preferred by the petitioner against the order (Annexure P-1) was dismissed by the Appellate Authority-respondent No. 2 on 24.6.1993 vide Annexure P-2:

2. Hearing to the Counsel for the petitioner has been provided while going

through the paper book.

3. Learned Counsel for the petitioner referring to section 1(3) of the 1972 Act has urged that provisions of the 1972 Act would not be applicable to the officials under the employment of the petitioner. It is claimed that the petitioner has not been notified as one of the establishments which are covered under the 1972 Act and merely because it employs more than 10 persons would not be a condition ipso facto making the petitioner governed under the ambit and scope of the 1972 Act.

4. To understand and appreciate the real controversy, provisions of section 1(3) of the 1972 Act for ready reference are being reproduced as below:

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

(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.

5. Merely because the petitioner inter alia is engaged in activities of religious nature in addition to carrying on functions of non-religious character, is itself not a ground to keep the petitioner insulated from the applicability of this statute. It is a beneficial legislation for the employees.

The employees working with the petitioner perform functions related to administration, establishment, accounts etc. as well. Not only this, the petitioner has even architects, engineers (civil, electrical and public health etc.) and those are engaged in maintenance work of buildings of the petitioner.

6. Learned Counsel for the petitioner could not deny that provisions of the Payment of Wages Act, 1936 (hereinafter referred to as the 1936 Act) apply to the employees of the petitioner.

7. Counsel for respondent No. 3 citing State of Punjab Vs. Labour Court Jullunder and Others, before respondent No. 1 had urged that the 1972 Act would apply to any and every establishment within the meaning of section 2(ii)(g) of the 1936 Act. Relevant portion of para 3 of the cited judgment for ready reference is reproduced as below:

.....The Punjab Shops and Commercial Establishments Act does not relate to all kinds of establishments. Besides shops, it relates to commercial establishments alone. Had the intention of Parliament been, when enacting section 1(3)(b), to refer to a law relating to commercial establishments, it would not have left the expression "establishments" unqualified. We have carefully examined the various provisions of the Payment of Gratuity Act, and we are

unable to discern any reason for giving the limited meaning to section 1(3)(b) urged before us on behalf of the appellant. Section 1(3)(b) applies to every establishment within the meaning of any law for the time being in force in relation to establishments in a State. Such an establishment would include an industrial establishment within the meaning of section 2(ii)(g) of the Payment of Wages Act. Accordingly, we are of opinion that the Payment of Gratuity Act applies to an establishment in which any work relating to the construction, development or maintenance of buildings, roads, bridges or canals, or relating to operations connected with navigation, irrigation or the supply of water, or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on.

8. Though in this authority, the point for consideration before the Hon'ble Apex Court was as to whether the Hydel Upper Body, Doaba Construction Project is an establishment and that the 1972 Act applies to it or not, but from overall reading of this authority, there does not remain any dispute that the petitioner is such an establishment where the 1972 Act is applicable. Fully discussing and elaborating the matter in issue, the Controlling Authority as also the Appellate Authority vide impugned orders Annexures P-1 and P-2 respectively have unequivocally held that the 1972 Act applies to the employees of the petitioner. Keeping in view the totality of facts and circumstances, there is neither factual nor any legal fault in the order (Annexure P-1) dated 13.12.1991 passed by the Controlling Authority-respondent No. 1 as also the order (Annexure P-2) dated 24.6.1993 passed by the Appellate Authority-respondent No. 2 and the same are hereby affirmed. Sequently, the petition, being without any merit, is dismissed.