
(1990) 09 P&H CK 0027
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2556 of 1987

Raj Bahadur

APPELLANT

Vs

General Manager, Food Specialities Ltd. and Others

RESPONDENT

Date of Decision : 03-09-1990

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 2

Citation : (1992) 1 ILR (P&H) 102 : (1991) 99 PLR 631

Hon'ble Judges : S.S. Sodhi, J

Bench : Single Bench

Advocate : Atul Lakhanpal, for the Appellant; N.K. Sodhi and S.S. Sethi, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Sodhi, J.—The constitutional validity of clause (bb) of Section 2(oo) of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act") is what is sought to be challenged here.

2. A similar point has been raised in a bunch of writ petitions which shall all be disposed of by this order. To highlight the point in issue, it would suffice to give the relevant facts pertaining to this particular petition

3. The petitioner-Raj Bahadur was employed as a Helper on five different occasions. Each time, the appointment given to him was for a fixed period. The last such term of appointment being from May 7, 1984 to December 19, 1984. It was when further no appointment was offered to him that a reference was made at his instance to the Labour Court u/s 10(1)(c) of the Act regarding the termination of his services.

4. The Labour Court, by its impugned Award of January 13, 1987 (annexure p/ (sic)) held that the petitioner was not entitled to the benefits of Sections 25F, 25G or 25H of the Act as he had worked for only 185 days and his appointment

was for a fixed term which had expired.

5. On the facts as they emerge here, the case of the petitioner is squarely covered by the provisions of sub-section (bb) of Section 2(oo) of the Act. Faced with this situation, counsel for the petitioner sought to contend that these provisions conferred an arbitrary and unbridled power upon the employer to avoid liability towards his workmen by repeatedly making employments of fixed periods and it was thus an absolute lever in the hands of the employer to exploit the workmen who were thereby left without any security in service. This contention cannot; however, stand scrutiny, as a plain reading of the provisions of the Act would show that if an employer acts as per the fears expressed by the counsel for the petitioner, it would clearly amount to "unfair labour practice" rendering such action not only contrary to law but would also expose the employer to imprisonment. It would be pertinent, in this behalf, to advert to the provisions of Section 25U of the Act, which read as under :-

"Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both."

6. The expression "unfair labour practice" has been defined by Section 2(ra) of the Act to mean any of the practices specified in 5th Schedule item-10 of this Schedule would clearly cover the point in issue. This item is in the follows terms:-

"To employ workmen as "badlis" casuals or temporaries and to continue them as such for years with the object of depriving them of the status and privileges of permanent workmen."

7 It will be seen, therefore, that the Legislature has ensured ample safeguards against the provisions of clause (bb) of Section 2(oo) being used as a device for unfair labour practice, by the employer against the employees. No occasion thus survives to brand this provision of law as conferring any arbitrary or unrestricted power upon art employer to misuse against an employee At any rate, no constitutional invalidity can be attributed to it. Clause (bb) of Section 2(oo) of the Act must thus be held to be constitutionally valid.

8. As mentioned earlier, the case of the petitioner clearly falls under sub-clause (bb) of Section 2(oo) of the Act, and no exception can thus be taken to the impugned Award of the Labour Court. This writ petition is accordingly hereby dismissed. In the circumstances, however, there will be no order as to costs.