
(1979) 03 P&H CK 0013
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1305 of 1967

Ram Singh

APPELLANT

Vs

Fertilizer Corporation of India Ltd.

RESPONDENT

Date of Decision : 23-03-1979

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1979) 03 P&H CK 0013

Hon'ble Judges : Gokal Chand Mital, J

Bench : Single Bench

Advocate : Jang Bahadur, for the Appellant; R.N. Narula, for the Respondent

Final Decision : Dismissed

Judgement

Gokal Chand Mital, J.—This is a writ petition filed by an employee of the Fertilizer Corporation of India (Nangal Unit) for quashing the order (annexure "C") dated 22nd February, 1966, by which his starting salary was reduced from Rs. 187 to Rs. 130 per month.

2. A preliminary objection has been raised by Shri R.N. Narula, learned counsel appearing for the Fertilizer Corporation of India Ltd. (hereinafter to be called "the Corporation"), that the Corporation is a private limited company registered under the Indian Companies Act and it is not a statutory authority competent to make laws and the claim of the writ petitioner is for the enforcement of contractual obligations and as such no writ petition under Article 226 of the Constitution of India is maintainable. For this preliminary objection, reliance is placed on Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, , and Praga Tools Corporation v. C.V. Imanuel [1969] 39 Comp Cas 889 (SC). Referring to Sukhdev Singh's case, the learned counsel has relied on the following passage (in para 25 at p. 1339):

"A company makes rules and regulations in accordance with the provisions of the Companies Act. A statutory body on the other hand makes rules and regulations by and under the powers conferred by statutes creating such bodies. Regulations in Table-A of the Companies Act are to be adopted by a company. Such adoption is a statutory requirement. A company cannot come into existence unless it is incorporated in accordance with the provisions of the Companies Act. A company cannot exercise powers unless the company follows the statutory provisions. The provision in the Registration Act requires registration of instruments. The provisions in the Stamp Act contain provisions for stamping of documents. The non-compliance with statutory provisions will render a document to be of no effect. The source of the power for making rules and regulations in the case of a Corporation created by a statute is the statute itself. A company incorporated under the Companies Act is not created by the Companies Act but comes into existence in accordance with the provisions of the Act. It is not a statutory body because it is not created by the statute."

3. In Praga Tools Corporation's case [1969] 39 Comp Cas 889, the learned counsel for the respondent has relied on the following passage (at p. 894) :

"The company being a non-statutory body and one incorporated under the Companies Act there was neither a statutory nor a public duty imposed on it by a statute in respect of which enforcement could be sought by means of a mandamus nor was there in its workmen any corresponding legal right for enforcement of any such statutory or public duty."

4. Basing submissions on the above passages it is submitted in respect of the preliminary objection that no writ petition is competent against the Corporation as it is only a limited company and if there is any dispute between the parties, it is of a contractual nature and can be raised in any other appropriate court or authority but not under art 226 of the Constitution of India.

5. This matter is now finally settled and could not be controverted by the counsel for the writ petitioner nor could he dispute that the Corporation is a limited company incorporated under the Indian Companies Act, and as such the writ petition is not competent.

6. Even on merits the writ petitioner has not shown violation of any statute or rules and regulations and based his claim solely on the fact that he was given a starting salary of Rs. 187 which has been reduced to Rs. 130. In the absence of any statutory provision to support the claim, it would be purely contractual and the violation of any contract of such a nature is not amenable to the writ jurisdiction of this hon"ble court. The petitioner is relegated to his ordinary remedy of suit or raising any industrial dispute. Consequently, the writ petition is dismissed but with no order as to costs.