

(2002) 09 GUJ CK 0061

In the Gujarat High Court

Case No : Special Civil Application No. 12572 of 2000

Rameshchandra Shivilal Modi

APPELLANT

Vs

Appellate Authority, A.C. Raval

RESPONDENT

Date of Decision : 24-09-2002

Acts Referred:

Industrial Disputes Act, 1947 — Section 2
Minimum Wages Act, 1948 — Section 2
Payment of Gratuity Act, 1972 — Section 2

Citation : (2003) 97 FLR 956 : (2003) 1 GLR 413 : (2003) 2 LLJ 104

Hon'ble Judges : Y.B. Bhatt, J

Bench : Single Bench

Advocate : J.D. Ajmera, for Ashok S. Patel, for the Appellant; Hansaben Punani, A.G.P. for Respondent Nos. 1 and 2 and Mukund M. Desai, for the Respondent

Final Decision : Dismissed

Judgement

Y.B. Bhatt, J.—The present petitioner, being a teacher employed by respondent No. 3, has challenged in the present petition under Article 227 of the Constitution of India, the judgment and order passed in Appeal No. 9 of 2000 dated 14th August, 2000, the order passed by the appellate authority under the Payment of Gratuity Act, 1972.

2. The net conclusion drawn by the appellate authority, rejecting the claim of the present petitioner, is that a teacher is not an "employee" within the meaning of the Payment of Gratuity Act, and therefore, no benefit as claimed by the said teacher can be granted to him under the Act.

3. This issue and legal controversy is squarely covered by a Full Bench Decision of this Court in the case of Shantiben L. Christian v. Administrative Officer, Ahmedabad Municipal School Board, rendered in S.C.A. No. 5272 of 1987, decided on 4th May, 2001 [2001 (2) GLR 1626 (FB) : 2001 (2) GLR 389 (FB)]. This decision leaves no doubt that a primary teacher serving under an educational trust as a primary teacher does not fall within the definition of the

word "employee" as defined under the Payment of Gratuity Act. This conclusion has been drawn by the Full Bench after considering the comparable provisions of Section 2(s) of Industrial Disputes Act, 1947 as also Section 2(i) of the Minimum Wages Act.

4. After having carefully perused the aforesaid decision, I am in respectful agreement with the principles laid down therein and the conclusions drawn. I see no reason whatsoever to take a contrary view.

5. I may also add here that as a single Judge of this Court, I have no power to take any view contrary to the view expressed by the Larger Bench. Even in cases where another view is possible, as a single Judge of this Court, it is not open to me to doubt the validity of the decision of a Larger Bench, and/or to refer the same to yet another Larger Bench. This principle is clearly pronounced by the Supreme Court in the case of Pradip Chandra Parija and Others Vs. Pramod Chandra Patnaik and Others, .

6. I am informed by learned Counsel for the petitioner that the aforesaid decision of this Full Bench has been carried to the Supreme Court and that the relevant SLP has been admitted. However, I am also informed that the impugned judgment referred to hereinabove has not been stayed. In the premises, I am bound to find that the said judgment is still good law, and binding upon all the Courts in the State.

7. In the premises aforesaid, I find that there is no substance in the present petition and the same is therefore, rejected. Notice is discharged with no order as to costs.