(1976) 10 KAR CK 0007

In the Karnataka High Court

Case No : Misc. First Appeal No''s. 557 to 561 of 1975

Regional Director, E.S.I.C., Bangalore — APPELLANT

Vs

High Lands Coffee Works, Etc. Etc. — RESPONDENT

Date of Decision : 28-10-1976

Acts Referred:

Employees State Insurance Act, 1948 — Section 1 (4), 2 (12)
Factories Act, 1948 — Section 2 (k)

Citation : (1977) 1 LLJ 178

Hon'ble Judges : M.N. Venkatachaliah, J;C. Honniah, J

Bench : Division Bench

Judgement

1. The Central question involved in this batch of appeals preferred by the Regional Director, Employees'' State Insurance Corporation, Bangalore, against the order date 20-3-1975 of the Employees'' Insurance Court, Bangalore, is whether the factories of the respondents which were seasonal factories within the meaning of S. 2(12) of the Employees'' State Insurance Act, 1948 (hereinafter to be called the "Act") would cease to be such seasonal factories after the amendment of S. 2(12) of the Act by the Amending Act 44 of 1966 if the said factories worked for a period in excess of seven months in a year.

2. The facts which lie in a short compass are not in dispute. They are set-out in the course of the order of the Court below and it is not necessary to re-state them here.

3. The factories of the five respondents are engaged in "coffee curing" which involves the processes of dehusking, cleaning, grading, garbling and packing raw coffee. There is no dispute that the factories of the five respondents were "seasonal factories" within the meaning of the definition of that expression obtaining in S. 2(12) of the "Act", as it stood prior to its amendment by the Amending Act 44 of 1966, and that as S. 1(4) of the Act provides that the provisions of the Act shall apply to all factories other than "seasonal factories" the said factories did not attract the provisions of the Act.

4. Prior to the amendment of S. 2(12) the definition of the expression "seasonal factory" was the following :

"''Seasonal factory'' means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes.

The expressions ''manufacturing process'' and ''power'' shall have the meanings respectively assigned to them in the Factories Act, 1948".

After its amendment by the Amending Act 44 of 1966, the definition of "Seasonal factory" reads :

"''Seasonal factory'' means a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes and includes a factory which is engaged for a period not exceeding seven months in a year -

(a) in any process of blending, packing or repacking of tea or coffee; or

(b) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify.

The expression ''manufacturing process and power'' shall have the meanings respectively assigned to them in the Factories Act, 1948."

5. The only contention urged for the appellants is as to the object and purposes of the amendment introduced into the definition by the Amending Act and the construction it admits of. The contention, in substance, is that the amendment restricts the amplitude of the definition of, "seasonal factory" as originally obtaining and that a factory which was "seasonal factory" under the unamended definition would cease by virtue of and consequent upon the amendment, to be such "seasonal factory" if it worked for a period exceeding seven months in a year.

6. In the unamended provision of S. 2(12) of the Act, as "seasonal factory" meant a factory which is exclusively engaged in one or more of the manufacturing processes, namely, cotton ginning, cotton or jute pressing, decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea or any manufacturing process which is incidental to or connected with any of the aforesaid processes. The expression "manufacturing processes" in this section is a defined term and is required to have the same meaning assigned to it in S. 2(k) of the Factories Act, 1948. The expression "seasonal factory" also is a defined term. Being a defined term, it is to be understood in terms of the somewhat side scope of the definition and not in

terms of its ordinary or popular notion. It is only whether the definition of a term is not statutorily provided the term is to be construed in its popular sense. What emerges from a reading together of the expressions "seasonal factory" and "manufacturing process" in the context of the rather wide amplitude statutorily imparted to them is that, a factory engaged in the exclusive manufacture of coffee could retain its character as a "seasonal factory" even if it worked throughout the year and even if the "process of blending, packing or repacking" is carried on by it also throughout the year as incidental to or connected with manufacture of coffee. The question is whether this position which admittedly obtained before the amendment stood altered after the amendment and that such factory lost its character as a seasonal factory if the period of its operation exceeded seven months in the year.

7. The Amending Act 44 of 1966 introduced, with effect from 28-1-1968, an additional clause into the definition of "seasonal factory". The expression "and includes" with which the amended clause begins shows that the definition originally obtaining was sought to be expanded. The expression "includes" chosen by the Legislature in the interpretation clause, denotes an extension of the idea which is sought to be defined. In Craies on Statute Law, Seventh Edition, at page 213, the import of an inclusive definition is explained as follows :

"There are two forms of interpretation clause. In one, where the word defined is declared to ''mean'' so and so, the definition is explanatory and prima facie restrictive. In the other, where the word defined is declared to ''include'' so and so, the definition is extensive, e.g., ''sheriff'' includes ''under-sheriff''.

The Supreme Court explained the scope of such inclusive definitions as follow :

"............. It is obvious that the words used in an inclusive definition denote extension and cannot be treated as restricted in any sense. Where we are dealing with an inclusive definition it would be inappropriate to put a restrictive interpretation upon terms of wider denotation." (See The State of Bombay and Others Vs. The Hospital Mazdoor Sabha and Others,

"........ The word ''includes'' is often used in interpretation clauses in order to enlarge the meaning of the words or phrases occurring in the body of the ''statute''. When it is so used, these words and phrases must be construed as comprehending not only such things as they signify according to their nature and import but also those things which the interpretation clause declares that they shall include." (See Commissioner of Income Tax, Andhra Pradesh Vs. Taj Mahal Hotel, Secunderabad,

8. In view of these settled principles of interpretation, the import of the amendment in the present case is clear and beyond doubt. The legislative intent is clearly in favour of a widening of the definition of "seasonal factory". In so far as and in relation to a factory exclusively engaged in the manufacture of coffee is concerned, even the original definition of the expression "seasonal factory" brought within its ambit a factory exclusively engaged in the manufacture of

coffee, and engaged in the process of "blending, packing or repacking" of coffee as incidental to or connected with the manufacture of coffee even though such factory may work throughout the year. After the amendment this position is unaltered and continued. In addition a factory which was engaged in "blending, packing or repacking" of coffee, not as incidental to or connected with, but independently of the "manufacture of coffee" is also brought with the statutory rubric of a seasonal factory provided such factory worked for a period not exceeding seven months in a year. This, in our opinion is the result of the extension of the idea of "seasonal factory" brought about by the amendment. The amendment is not restrictive of the scope of the definition originally obtaining, but is on the contrary, an expansion of it. The contention urged by Sri Papanna that the amendment was intended to and does restrict the scope of the Statutory concept of a "seasonal factory" in the unamended definition cannot be accepted. The view taken by the Court below accords with the accepted principles of interpretation, and does not call for interference.

9. No other contentions are urged.

10. In the result, for the reasons stated above, these appeals fail and are dismissed. There will, however, be no order as to costs in these appeals.