

(2020) 05 MP CK 0128

In the Madhya Pradesh High Court

Case No : Writ Petition No. 3032 Of 2012

Santosh Kumar Malviya

APPELLANT

Vs

Industrial Training Institute And Others

RESPONDENT

Date of Decision : 22-05-2020

Acts Referred:

Industrial Disputes Act, 1947 — Section 2(j)

Citation : (2020) 05 MP CK 0128

Hon'ble Judges : Vishal Dhagat, J

Bench : Single Bench

Advocate : Ashok Kumar Gupta, Brindavan Tiwari

Final Decision : Disposed Of

Judgement

1. Petitioner has filed the present writ petition being aggrieved by order dated 24/08/2002. By said impugned order, Industrial Court in appeal has set aside the order passed by the Labour Court dated 20/07/2001, by which it was ordered to reinstate the petitioner with 50% back wages and order of termination dated 29/11/1999 was quashed.

2. Industrial Court has set aside the order passed by the Labour Court on the ground that industrial Training Institute is not an industry within definition of Section 2(j) of Industrial Disputes Act, 1947. It was held that industrial Training Institute is a training institute and cannot be taken to be a scheduled industry. The basic work of the institute is to impart education. Labour Court had committed an error in holding Industrial Training Institute to be an industry.

3. Counsel appearing for the petitioner has relied upon the judgment reported in 1995 MPLJ 53, Ram Krishan Sharma versus Samrat Ashok Technical Institute, Vidisha. In the said judgment, it has been held that educational service in educational institution will fall within the definition of industry. It has been held by this Court that word 'service' used in definition of industry in section 2(j) is of wide import and includes educational institutions in its ambit. The triple test

theory as laid down in the case of Bangalore Water Supply and Sewage Board versus A. Rajappa apply to educational institution then it comes out that professions, clubs, educational institutions, corporators, research institutes, charitable projects if they fulfill that test, it cannot be exempted from the scope of Section 2(j). Section 2(j) has been amended in the year 1982, but, same has not been notified and all definition is retained in Industrial Disputes Act, 1947 regarding industry. As per the old definition, educational, scientific, research or training institutes are not exempted from the definition of industry. Since Industrial Training Institute carries out systematic activity organised by corporation of employer and employees and said activity is service calculated to satisfy the human wishes, therefore, educational institution will be covered within definition of industry.

4. Industrial Court, Jabalpur has taken a contrary view to the law laid down in judgment reported in 1990 5MPLJP 53.

5. In view of aforesaid discussion, order passed by Industrial Court dated 24/08/2002 is quashed and order passed by the Labour Court dated 20/07/2001 is affirmed. Respondents are directed to comply with the order passed by the Labour Court within period of one month from the date of receipt of certified copy of the order passed today.

6. With the aforesaid direction, writ petition is disposed of.