
(2005) 12 DEL CK 0053
In the Delhi High Court
Case No : LPA No. 2497 of 2005

Shefali Pathak

APPELLANT

Vs

Indian Institute of Technology

RESPONDENT

Date of Decision : 15-12-2005

Acts Referred:

Citation : (2006) 128 DLT 156

Hon'ble Judges : Markandeya Katju, C.J.; Madan B. Lokur, J

Bench : Division Bench

Advocate : Jayant Bhushan, C.M. Rao and Sudhir Nandrajog, for the Appellant;
Pratibha M. Singh, for the Respondent

Final Decision : Allowed

Judgement

Markandeya Katju, C.J.—This writ appeal has been filed against the judgment of the learned Single Judge dated 24.10.2005 in WP(C) No. 18268/2005.

2. Heard learned counsel for the parties and perused the record.

3. The facts in detail have been set out in the judgment of the learned Single Judge and hence we are not reproducing the same except where necessary.

4. The respondent is a statutory body constituted under the Indian Institutes of Technology Act, 1961. The respondent is providing education in the field of engineering and technology. It is offering a number of degree courses at the undergraduate, postgraduate and other levels, amongst which is the Bachelor of Technology course in Chemical Engineering, to which admissions are made through a Joint Entrance Examination.

5. The appellant/writ petitioner appeared in the Joint Entrance Examination in the year 2001 and successfully qualified the same and was admitted to the Bachelor of Technology course in Chemical Engineering (2001-2005 course).

6. The appellant joined the Bachelor of Technology course in Chemical Engineering at the Indian Institute of Technology, Delhi in the year 2001. The

course is of four years duration. To successfully complete the course a student has to obtain 190 credits, and the appellant has obtained 192.5 credits. In addition to these credits, the student has also to do three non credit courses. The non-credit courses are (i) Introduction to department, (ii) NCC/NSS/NSO and (iii) Practical training. The non credit course of practical training is normally done at the end of the third year. In order to do her practical training the appellant went to Germany at the end of 3rd year but returned without completing the course due to illness. The appellant, Therefore, took the course at the end of the 4th and final year.

7. The respondent Institute vide letter dated 13.1.2005 permitted the appellant to complete the practical training course from 17.5.2005 to 8.7.2005.

8. The appellant had appeared for the entrance examination of the Indian Institute of Management, Lucknow, and she successfully qualified in the same and was granted admission. The appellant was to report at IIM, Lucknow latest by 30.6.2005. She, Therefore, opted for training at Surya Chemical Industries, Ahmedabad, which is a 7 days a week 365 days a year, round the clock industry.

9. The appellant completed 400 hours of training between 17.5.2005 and 26.6.2005 working 10 hours a day for 40 days. The appellant submitted the training completion certificate to the head of Training & Placement and the same was accepted by him on 28.6.2005.

10. Thereafter, the appellant received the impugned letter dated 29.6.2005 whereby the Head of the Department, Chemical Engineering of the respondent called upon the appellant to return for training and complete 8 weeks of training on the ground that training of minimum 8 weeks is necessary for completing the Practical Training Course (which is necessary to get the B.Tech Degree). The parents of the appellant replied to the said letter vide letter dated 20.7.2005 stating that the instructions to the students require that a student shall undergo training of 400 hours for successfully completing the practical training and 8 weeks of training is not mandatory. It was further pointed out that the training completion certificate was also accepted by the training coordinator/course supervisor and Head of T&P (Training & Placement).

11. In reply the respondent wrote a letter on 26.7.2005 stating that the appellant had to undertake 400 hours of training with minimum training period of 8 weeks. The appellant was further directed to undergo practical training for a minimum period of 20 working days on the ground that there was a break in the training.

12. The appellant, in the meantime, having joined the Indian Institute of Management (IIM), Lucknow, submitted that insistence on her returning for training would deprive her of the IIM seat, apart from wasting an academic year and ruining her career. She further alleged that insistence on minimum 8 weeks training is contrary to the "Instructions to the Students". The "Instructions to the Students" are clear that what is required is 400 hours of practical training. Eight

weeks minimum training, which the respondent was insisting, applies only in case of industries working 5 days a week and is not applicable to industries working 7 days a week.

13. The appellant then filed a writ petition challenging the action of the respondent which was dismissed. Hence, this appeal.

14. The question which falls for our consideration is whether 8 weeks minimum training is mandatory or whether the training can be completed in a lesser period.

15. Note-I of the Instructions to the Students stipulates the period of training. It provides:

NOTE-I

Duration of training: Most of the industries in the country work from Monday through Saturday and cover a period of 48 hours per week. The stipulated period of 50 working days is applicable in such industries. A few industries however work for 5 days a week, to cover this period from Monday through Friday, in such cases only students are advised to obtain a certificate from the concerned industry indicating that they worked from Monday through Friday and that the student has undergone 400 hours of training (with minimum of 8 weeks) during the subject period. In such cases, the period of 50 working days will be proportionately reduced. The above is not applicable to overtime or unscheduled working by students in training organisations.

16. The note is thus in two parts. The first part relates to industries working 6 days a week at the rate of 48 hours per week i.e. 8 hours a day. In such industries the practical training has to be completed in 50 days [$8 \text{ (hours)} \times 50 \text{ (days)} = 400 \text{ hours}$]. Thus the common feature in industries working 5 days a week or 6 days a week is 400 hours of training. The appellant having worked in a 7 days a week industry for 40 days for 10 hours a day completed 400 hours of training. It was submitted by the appellant's counsel that the minimum of 8 weeks of training is applicable in respect of industries working only 5 days a week and is not applicable to the appellant.

17. In our opinion the requirement of Note I is clear that what is required is 400 hours of training. Hence, while interpreting Note I the principle of purposive construction should be applied.

18. The principle of purposive construction has been applied by the Supreme Court in a large number of decisions, e.g. Administrator Municipal Corporation, Bilaspur Vs. Dattatraya Dahankar and another, Hindustan Lever Ltd. Vs. Ashok Vishnu Kate and others, and Workmen of American Express International Banking Corporation Vs. Management of American Express International Banking Corporation, , etc.

19. Thus in Administrator, Municipal Corporation, Bilaspur v. Dattatraya Dahankar, Advocate and Anr. (supra) the Supreme Court observed (vide para 4):-

It seems to us that the High Court had a mechanical approach to construction. The mechanical approach to construction is altogether out of step with the modern positive approach. The modern positive approach is to have a purposeful construction that is to effectuate the object and purpose of the Act.

20. Similarly in *Hindustan Lever Ltd v. Ashok Vishnu Kate and Ors.* (supra) the Supreme Court adopted a purposive construction and observed (vide paras 41 & 42):-

In this connection, we may usefully turn to the decision of this Court in *Workmen of American Express International Banking Corporation Vs. Management of American Express International Banking Corporation*, wherein Chinnappa Reddy, J., in para 4 of the Report has made the following observations:-

The principles of statutory construction are well settled. Words occurring in statutes of liberal import such as social welfare legislation and human rights" legislation are not to be put in Procrustean beds or shrunk to Liliputian dimensions. In construing these legislations the imposture of literal construction must be avoided and the prodigality of its misapplication must be recognised and reduced. Judges ought to be more concerned with the "colour", the "content" and the "context" of such statutes (we have borrowed the words from Lord Wilberforce's opinion in *Prenn v. Simmonds*). In the same opinion Lord Wilberforce pointed out that law is not to be left behind in some island of literal interpretation but is to inquire beyond the language, unisolated from the matrix of facts in which they are set; the law is not to be interpreted purely on internal linguistic considerations. In one of the cases cited before us, that is, *Surendra Kumar Verma v. Central Government Industrial Tribunal-cum-Labour Court* we had occasion to say,

Semantic luxuries are misplaced in the interpretation of "bread and butter" statutes. Welfare statutes must, of necessity, receive a broad interpretation. Where legislation is designed to give relief against certain kinds of mischief, the Court is not to make inroads by making etymological excursions.

42. Francis Bennion in his "Statutory Interpretation" Second Edition, has dealt with the Functional Construction Rule in Part XV of his book. The nature of purposive construction is dealt with in Part XX at page 659 thus:

"A purposive construction of an enactment is one which gives effect to the legislative purpose by -

(a) following the literal meaning of the enactment where that meaning is in accordance with the legislative purpose (in this Code called a purposive-and-literal construction), or

(b) applying a strained meaning where the literal meaning is not in accordance with the legislative purpose (in the Code called a purposive-and-strained construction)."

At page 661 of the same book, the author has considered the topic of Purposive Construction in contrast with literal construction. The learned author has observed as under:

Contrast with literal construction

Although the term "purposive construction" is not new, its entry into fashion betokens a swing by the appellate courts away from literal construction. Lord Diplock said in 1975: "If one looks back to the actual decisions of the [House of Lords] on questions of statutory construction over the last 30 years one cannot fail to be struck by the evidence of a trend away from the purely literal towards the purposive. The matter was summed up by Lord Diplock in this way -

... I am not reluctant to adopt a purposive construction where to apply the literal meaning of the legislative language used would lead to results which would clearly defeat the purposes of the Act. But in doing so the task on which a court of justice is engaged remains one of construction, even where this involves reading into the Act words which are not expressly included in it.

21. In our opinion, the whole object of the provision for duration of training was that a student should have undergone 400 working hours of training. The further requirement of doing it in 8 weeks time is to be held as directory and not mandatory.

22. There is no dispute that the appellant had put in 400 working hours training. Hence, adopting a purposive interpretation we are of the opinion that it has to be held that the appellant has completed her practical training as required. The appeal is, Therefore, allowed and the impugned judgment of the learned Single Judge is set aside.

23. A Writ of Mandamus shall issue to the respondent to hold that the appellant has successfully completed her practical training. We further direct the respondent to issue the certificate of acceptance of training, and to formally declare the result of the appellant in the course of Bachelor of Technology in Chemical Engineering and if she has passed, to issue her the degree and certificate of Bachelor of Technology in Chemical Engineering forthwith.

24. The appeal is allowed with no orders as to costs.