
(1983) 09 AHC CK 0080
In the Allahabad High Court
Case No : Government Appeal No. 677 of 1977

State	Vs	APPELLANT
P.A. Sundaram		RESPONDENT

Date of Decision : 08-09-1983

Acts Referred:

Factories Act, 1948 — Section 49, 92

Citation : (1982) 8 ACR 37

Hon'ble Judges : B.C. Jauhari, J

Bench : Single Bench

Advocate : Prem Shanker Misra, for the Respondent

Final Decision : Dismissed

Judgement

B.C. Jauhari, J.—This appeal has been filed by the State against the order of acquittal passed by Sri K.P. Pandey, Special Judicial Magistrate, Allahabad, dated 13-11-1978.

2. It appears that the Factory Inspector filed a complaint against the Respondents in the court of the Magistrate complaining of breach of Rules 3 and 8 namely that the annual increments as due under the rules were not paid to Sri P.P. Pathak, Welfare Officer from the period 1972 onwards. The Respondents pleaded not guilty and contended that no breach was committed by them. The learned Magistrate held that the matter of increment cannot be a subject of prosecution u/s 92 of the Factories Act and has recorded an acquittal in the case.

3. I have heard the learned Counsel for the State and the Respondent and felt that this appeal has no force and must be dismissed. Section 49 of the Factories Act relates to Welfare-Officers and enjoins that in every factory where there are 500 or more employees, occupier shall employ the prescribed number of Welfare-Officers. Sub-clause (2) lays down that the State Government shall prescribe the duties, qualifications and conditions of service etc. of the persons employed as Welfare-Officers. In the instant case Rule 3 of U.P. Factories Welfare-Officers

Rules 1955 lays down that in every factory where there are 500 or more workers, the Welfare-Officer shall be appointed. Thereafter, grades are specified. Consequently, what is a penal offence is the breach of requirement of the appointment of a Welfare-Officer where the factory employs 500 or more workers. In the instant case there is no dispute that a Welfare-Officer was in fact appointed. The matter of increment, grant of scale, other conditions of service are matters between the appointed Welfare Officer and the employers namely the factories and that has to be settled in accordance with the rule and regulations and the contract of employment. The matter of salary, increments etc. cannot, to my mind, be treated as matters for breach of which a prosecution would lie u/s 92 of the Factories Act. The reasoning of the learned Magistrate that Rules 3 and 8 of U.P. Factories Welfare Officers Rules, 1955 read with Section 49 of the Factories Act did not compel the factory to pay regular increments is sound.

4. In the result the appeal has no force and is dismissed.