

(2000) 12 P&H CK 0012
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6209 of 1999

The Executive Officer Panchayat Samiti, Bamial Teh,
Pathankot

APPELLANT

Vs

The Presiding Officer, Labour Court Gurdaspur

RESPONDENT

Date of Decision : 07-12-2000

Acts Referred:

Industrial Disputes Act, 1947 — Section 2

Citation : (2000) 12 P&H CK 0012

Hon'ble Judges : S.S. Sudhalkar, J; Mehtab S. Gill, J

Bench : Division Bench

Advocate : Mr. Vinod Sharma, for the Appellant; Mr. K.S. Kapoor, for the Respondent

Judgement

S.S. Sudhalkar, J.—By this writ petition, the employer is assailing the award of the Labour Court dated 24.2.1999 (Copy Annexure P/4), vide which respondent No. 2 (hereinafter referred to as the workmen) was ordered to be reinstated with continuity of service and 50% backwages. The workmen was appointed on 9.2.1995. His services were terminated on 17.11.1995. He raised a demand which ultimately resulted in reference to the Labour Court which was allowed. When the matter was before the Labour Court, notice was issued to the petitioner and respondent No. 3. They appeared on 7.1.1998 but failed to file written statement despite four opportunities and as such their defence was struck off. On 13.10.1998 they moved an application for filing written statement and the case was fixed for 23.12.1998. Counsel on behalf of the petitioner and respondent No. 3 appeared. An objection was taken by the AR of the workman. Thereafter none appeared on behalf of the petitioner and respondent No. 3 and they were proceeded ex-parte. As per award of the Labour Court, it is in the deposition of the workman that he had worked as Teacher from 9.2.1995 to 17.11.1997. Counsel for the petitioner argued that Panchayat Samiti should have been a party and therefore, the reference could not have been allowed. However, when Executive Engineer of the Panchayat Sainiti and the Chairperson of

Panchayat Samiti were joined, the employer cannot take advantage of any technical argument of this nature.

2. The next point argued by counsel for the petitioner is that Panchayat Samiti is not an "Industry" and that the workman was not workman as defined in the Industrial Disputes Act (hereinafter referred to as "the Act"). He has relied on the case of H.S.E.B. v. Santosh Garg and others, reported as 1997(3) R.S.J. 746. In that judgment, the learned Single Judge of this Court was dealing with a case of teacher in Primary School run by the H.S.E.B. It was held by learned Single Judge that the respondent, in that case, was not a workman and, therefore, Industrial Tribunal has no jurisdiction to adjudicate upon the dispute raised by him.

3. The question whether a teacher is a "workman" or not, is now settled in view of the judgment in the case of Miss A. Sundarambal Vs. Government of Goa, Daman and Diu and Others, . It has been held therein that a teacher employed in a school does not fall in the definition of expression "workman" though the school is an "industry" in view of the definition of workman, as it now stands. It has been observed by the Supreme Court as under :-

"....We are of the view that the teachers employed by educational institutions whether the said institutions are imparting primary, secondary, graduate or post-graduate education cannot be called as "workmen" within the meaning of Section 2(s) of the Act. Imparting of education which is the main function of teachers cannot be considered as skilled or unskilled manual work or supervisory work or technical work or clerical work. Imparting of education is in the nature of a mission or a noble vocation. A teacher educates children, he moulds their character, build up their personality and makes them fit to become responsible citizens..."

Learned counsel for the respondent No. 2 has relied on the case of 6. Jatiswar Sharma v. Director of Education, Govt. of Manipur and another, reported in 1985 Lab. I.C. 414. In that case, a Craft Instructor in Basic Training Institute was held to be a workman.

4. In the present case, respondent No. 2 is not a Craft Instructor and moreover, the case is covered by the principle of Supreme Court judgment in the case of Miss A. Sundarambal (supra).

For the above reasons, I need not go into the discussion on the question, whether the petitioner is an "Industry" or not.

As a result, this petition succeeds and the award of the Labour Court is set- aside.

5. Petition allowed.