
(2003) 01 P&H CK 0006
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 117 of 1985

The Punjab Water Supply and Sewerage Board and Another	APPELLANT
Vs	
The Presiding Officer, Labour Court and Another	RESPONDENT

Date of Decision : 08-01-2003

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F
Punjab Water Supply and Sewerage Board Act, 1976 — Section 18

Citation : (2003) 134 PLR 613

Hon'ble Judges : N.K. Sodhi, J

Bench : Single Bench

Advocate : Balram K. Gupta and Vikas P. Singh, for the Appellant; Salil Sagar, Addl. A.G., for the Respondent

Final Decision : Dismissed

Judgement

N.K. Sodhi, J.—Challenge in this writ petition is to the award dated 20.11.1984 passed by the Presiding Officer, Labour Court, Bathinda whereby the reference made to it u/s 10(1)(c) of the Industrial Disputes Act, 1947 (hereinafter referred to as the 1947 Act) was answered in favour of the respondent-workman and against the management holding that the services of the former had been terminated in contravention of the provisions of Section 25-F of the 1947 Act and therefore, the said termination was invalid. The workman was held entitled to reinstatement with continuity of service with full back wages.

2. The only ground on which the impugned order is now challenged before me is that the petitioner is not an "industry" within the meaning of Clause (j) of Section 2 of the Act and, therefore, the reference made to the Labour Court was invalid and that the Labour Court had no jurisdiction to adjudicate upon the dispute. Petitioner is the Punjab Water Supply and Sewerage Board which is a statutory body constituted under the Punjab Water Supply and Sewerage Board Act, 1976 (Punjab Act No. 28 of 1976) (hereinafter called the 1976 Act). As is clear from the preamble to this Act it was enacted to provide for the setting up of

a Board for the purpose of regulation and development of drinking water supply and sewerage in the State of Punjab. The powers and functions of the Board are mentioned in Sections 18 and 19 of the 1976 Act and these are as under:

"18. Functions of Board:- The Board shall perform all or any of the following functions, namely-

- (i) investigating and surveying the requirements of water supply and sewerage;
- (ii) planning and preparing schemes including schemes covering areas falling within the jurisdiction of more than one local authority for the purpose of providing the supply of the drinking water of sewerage facilities;
- (iii) executing schemes under a phased programme for the provision of drinking water and sewerage facilities with the areas of local authorities to which such schemes relate;
- (iv) executing such drinking water supply or sewerage facilities schemes as may be transferred by the Government from the department of Public Health to the Board;
- (v) working out priorities with the approval of the Government and drawing up a detailed programme of executing the schemes;
- (vi) laying down the norm of staff to be employed by a local authority for the maintenance of water supply and sewerage works which the local authority concerned shall notwithstanding anything contained in any other law, take into consideration while employing the additional staff necessitated by such works;
- (vii) any matter which is supplemental, incidental or consequential to any of the above functions;
- (viii) such other functions as may be prescribed.

19. General Powers of Board:- (1) The Board shall, for the purpose of carrying out its functions under this Act, have the following powers, namely:-

- (i) to incur and hold such movable and immovable property as it deems necessary and to lease, sell or otherwise transfer any such property subject to such conditions as may be prescribed;
- (ii) to incur expenditure and undertake any work in any area in the State for the preparation and execution of such schemes as it may consider necessary for the purpose of this Act, or as the case may be, the functions entrusted to it by the Government;
- (iii) to enter into any contract; and
- (iv) do all things necessary for the purpose of carrying out the provision of this Act.

(2) Whenever any land or any interest therein which is required by the Board for

implementing any scheme cannot be acquired by agreement, the State Government may, at the request of the Board, procure acquisition thereof under the provision of the Land Acquisition Act, 1894 and on payment by the Board of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Board."

3. A reading of the aforesaid provisions makes it clear that the primary function of the Board is not only to investigate and survey the requirements of water supply and sewerage but also to plan and prepare schemes including scheme covering areas falling within the jurisdiction of more than one local authority for the purpose of providing supply of the drinking water or sewerage facilities. The different schemes prepared by the Board to carry out the aforesaid functions and objectives are also required to be carried out by the Board.

4. The argument of the learned senior counsel appearing for the Board is that the functions of the Board as enumerated in 1976 Act are sovereign in nature and therefore, outside the pale of the concept of Industry as defined in Clause (j) of the 1947 Act. I regret my inability to accept this contention. The function of preparing schemes for the supply of drinking water and sewerage facilities is not such an activity which a private agency cannot undertake. It is a different matter that the Government in its wisdom thinks it proper to undertake such activities exclusively to the exclusion of the private agency but that would not make the functions of the Board as sovereign functions. The sovereign functions of the State are those functions which are inalienable and which the State alone can perform and no other private agency can carry out. Can it be said that the functions of the Board are such which are inalienable and which no private agency can undertake. The obvious answer is in the negative. I have no hesitation in holding that the functions of the Board are not sovereign functions of the State and they are such which can be performed by any other agency as well. Since the functions of the Board are not sovereign functions of the State, it cannot be said that its activities fall outside the purview of definition of "industry" as given in 1947 Act. The view that I have taken finds support from the celebrated judgment of the Apex Court in Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and Others, .

5. No other point has been raised.

6. In the result, the writ petition falls and the same stands dismissed with no order as to costs.