
(1966) 09 MAD CK 0011

In the Madras High Court

Case No : Civil Revision Petition No's. 1001 to 1003 of 1963

V.T. Ramaswami and Another

APPELLANT

Vs

The Management of Gemini Studios, Madras

RESPONDENT

Date of Decision : 22-09-1966

Acts Referred:

Factories Act, 1948 — Section 2(1)

Citation : AIR 1968 Mad 49 : (1967) 15 FLR 359 : (1967) 1 LLJ 794

Hon'ble Judges : Alagiriswami, J

Bench : Single Bench

Judgement

1. These three revision petitions are to revise the order of the Court of Small Causes, Madras, in P.W.A. Nos. 6, 8 and 9 of 1962. The petitioner

in C.R.P. 1002 and 1003 of 1963 is the same. He as well as the petitioner in C.R.P. 1001 of 1963 are tailors in Gemini Studios. They applied to

the Additional Commissioner for Workmen's Compensation, who is the authority competent to deal with applications under Payment of Wages

Act, for directing their employer to pay them overtime wages. The Additional Commissioner dismissed their applications on the ground that they

were not workmen as defined in S. 2(1) of the Factories Act, and therefore the provisions of the Payment of Wages Act would not be applicable

to them. On appeal, the learned Chief Judge of the Court of Small Causes, came to the conclusion that "person employed" mentioned in the

Payment of Wages Act cannot be equated to "worker" as defined in the Factories Act and that the applicants could not be considered as persons

working in a factory and connected with the manufacturing process of Cinematograph films and dismissed the appeals.

(2) In these petitions reliance is placed for the petitioners on the decision in

Employees State Insurance Corporation, Madras Vs. S.M. Sriramulu

Naidu, which was a case arising under the Employees' State Insurance Act in which a Bench of this Court held that a cinema studio and all the

various departments in that studio were factories within the meaning of the word "factory" as defined in that Act. As against this the respondent

relied on the decision in In Re: K.V.V. Sarma, Manager, Gemini Studios, Madras, , which relates to the present employer himself. There it was

clearly held that the wardrobe department to which the petitioners belong was not a factory.

The definition of "factory" in the Payment of Wages Act and the Factories Act is exactly the same. Though the definition of factory in the

Employees' State Insurance Act is slightly different, it does not make any substantial difference to the decision of the question as to what is a

factory for the purposes of that Act as different from what would be a factory for the purposes of the Factories Act. There seems to be a conflict

between the two decisions but for the purpose of disposing of the present matter it is not necessary to refer to them. Under the Payment of Wages

Act, it is not a "worker" as defined in the Factories Act, that is entitled to apply under the provisions of that Act, but a "person employed". He need

not be a "worker" as defined in the Factories Act. The definition of the word factory is as follows--

Factory means any premises including the precincts thereof--(i) Whereon ten or more workers are working, or were working on any day of the

preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on

or (ii) Whereon twenty or more workers are working on any day of the preceding twelve months, and in any part of which a manufacturing

process is being carried on without the aid of power, or is ordinarily so carried on but does not include a mine subject to the operation of the

Mines Act of 1952 or a railway running shed.

It was held that even in the earlier case relating to this very institution that certain parts of this institution would be factory. As under the definition of

the word "factory" any precincts in any part of which a manufacturing process is being carried on would also be factory the present petitioners

would be "persons employed" within the precincts of the factory and therefore

they would be entitled to apply to the proper authority under the Payment of Wages Act. This is conceded by the employer. This does not mean that it is conceded that the wardrobe department by itself is a factory. Nor does it mean that it is conceded that the present petitioners would be workers as defined in the Factories Act. This decision is limited to the simple question that the present petitioners are "person employed" entitled to apply under the Payment of Wages Act. These civil revision petitions are allowed and the petitions remanded to the Additional Commissioner for Workmen's Compensation for disposal in the light of the above observations. No costs.

3. Petition allowed.