

(1956) 03 BOM CK 0006
In the Bombay High Court
Case No : Appeal (I.C.) No. 12 of 1956

Worlikar D.K.

APPELLANT

Vs

Godavari Sugar Mills Ltd.

RESPONDENT

Date of Decision : 15-03-1956

Acts Referred:

Bombay Industrial Relations Act, 1946 — Section 11, 2(4)

Citation : (1956) 2 LLJ 92

Hon'ble Judges : S.H. Naik, J

Bench : Single Bench

Judgement

1. This is an appeal against a decision of the Judge, First Labour Court, Bombay, in an application made by the appellant praying for a declaration that the action of the respondent company in dismissing him was illegal and improper and for his reinstatement with compensation and other consequential reliefs.

2. The appellant was working as a stenographer in the respondent company's head office at Bombay on a monthly salary of Rs. 135 and a dearness allowance of Rs. 27. He was dismissed by the respondent on account of neglect of duty refusal to obey the directions given to him by his superiors and his insubordinate and arrogant behaviour. The appellant challenged the legality and propriety of the order passed by the respondent and prayed for his reinstatement with compensation.

3. The respondent contended that inter alia that the notification issued by Government applying the Bombay Industrial Relations Act, 1946 to the Sugar factories does not apply to the head offices of the sugar companies and, as the appellant was working as an employee in the head office of the respondent, his application to the labour court under the Bombay Industrial Relations Act was not maintainable. The respondent further pleaded that the head office in which the appellant was working is concerned with the work of seven other companies and is housed in the same premises as the offices of those companies. The staff employed in the head office of the respondent company is common to all those

companies and is not confined to the conduct of business of the sugar industry alone. The staff employed in the head office of the respondent has not been recognised by the Registrar under S. 11 of the Bombay Industrial Relations Act. The respondent, therefore, maintains that the present application made by the appellant was not maintainable under the Bombay Industrial Relations Act.

4. Both the parties agreed that the question as to the maintainability of the application made by the appellant should be decided as a preliminary issue. The learned Judge, therefore, decided that point as a preliminary issue and found it against the appellant. The appellant, therefore has preferred this appeal.

5. The only point which arises for determination in this appeal is the one which relates to the maintainability of the application. In order to decide this issue it is necessary to examine the notification issued by the Government applying the Bombay Industrial Relations Act to the Sugar factories. The relevant notification No. 1131/46, dated 4 October, 1952, issued by Government under S. 2(4) of the Bombay Industrial Relations Act, reads as follows :

"In exercise of the powers conferred by Sub-section (4) of Section 2 of the Bombay Industrial Relations Act, 1946, (Bom XI of 1947), and in suppression of Government notification in the Labour and Housing Department No. 1131/46 dated 19 January, 1952, the Government of Bombay is pleased to direct that all the provisions of the said Act shall apply to the following industry, namely :-

"The manufacture of sugar and its by products, including -

(i) the growing of sugarcane on farms belonging to or attached to concerns engaged in the said manufacture; and

(ii) all agricultural and industrial operations connected with the growing of sugarcane or the said manufacture, engaged in by such concerns.

Note :- For the purposes of this notification all service or employment connected with the conduct of the above industry shall be deemed to be part of the industry when engaged in or by an employer engaged in that industry."

Sri Chitre who appeared for the appellant contended that the words "the said Act, shall apply to the following industry, namely, the manufacture of sugar and its by products - including" - shows that the notification applies to sugar industry as a whole and therefore all service or employment, connected with the conduct of the sugar industry must according to the note in the notification be deemed to the part of industry and therefore it follow that the appellant, who was employed as a stenographer in the head office of the respondent is an employee in the industry to which the Bombay Industrial Relations Act has been made applicable. He drew my attention to the evidence adduced in this case which shows that a major part of the work of the head office is to purchase costly machinery and to receive it and make payments therefore on behalf of the respondent company. He also referred to the fact that some members of the staff of the head office go to the factory of the company for a month or so for finalizing the accounts or for

collecting information required in that connexion. He contended that these facts will go to show that the head office is concerned with the industry in which the respondent is engaged.

6. There is nothing in the wording of the notification to show that it applies to sugarcane industry, generally or as a whole. The industry to which it applies is specified and it is stated that the industry to which the notification applies is the manufacture of sugar and its by products including (i) the growing of sugarcane on farms belonging to or attached to concerns engaged in the said manufacture; and (ii) all agricultural and industrial operations connected with the growing of sugarcane or the said manufacture, engaged in by such concerns. The wording of the notification is clear. According to the working the manufacture of sugar and its by products including those operations referred to in Cls. (i) and (ii) is the industry to which the notification applies. The note in the notification must be read referring to the industry as specified above. The first clause of the notification refers to "the following industry" and the note refers to "the above industry". This will show that it is only the industry as specified below the first clause and above the note of the which the notification applies and the what is so specified is the manufacture of sugar and its by products including those operations which are referred to in Cls. (i) and (ii). If the notification were intended to apply to the sugar industry in general or as a whole, it was not necessary to refer to the manufacture of sugar and its by products and include thereunder the operations referred to in Cls. (i) and (ii) of the said notification because the agricultural operation of growing sugarcane and the industrial operation crushing it would have been automatically included in the sugar industry. The legislature thought that the industry of manufacture sugar and its by products would not include growing of sugarcane and crushing it and that is why the latter operations were specifically included in the manufacture of sugar and its by products. It is clear that, therefore, the notification applies to the industry as specified therein. The employer in the head office are not connected with the manufacture of sugar and its by products and the operations mentioned in Cls. (i) and (ii) and, therefore, the notification does not apply to them.

7. The standing orders framed under S. 35 of the Bombay Industrial Relations Act for clerks and technical assistances are intended for those who are doing manual or clerical work for watchmen employed in the factory and not in the head office. There is nothing in the worried go the standing orders to show that they are applicable to the members of the staff employed in the head office. Occupations of, the members of the staff in the head office in the members of the registrar appointed under the Bombay Industrial Relations Act under S. 11 of the said Act. The evidence of the respondent's witness Sri Saldhana goes to show that the members of the staff of the employees of the sugar factories. There is a union for the workers of the sugar factory and that the union does not represent the members of the staff employed in the head office. The applicant has stated in his application that as he was trying to form a union of the employees of the head office, the management victimized him by dismissing him

from the service. Although all these facts may be irrelevant for the purpose of interpretation of the notification issued by the Government, they are significant as explaining how the employees themselves have construed the notification.

8. In the case of the Simplex Mill Company Ltd. v. their workmen 1955 II L.L.J. 43 the Labour Appellate Tribunal held that according to the relevant notification issued by Government for the cotton textile industry. The Bombay Industrial Relations Act does not apply to the members of the staff employees in the head office in the cotton textile mills. The principle laid down in that case also apply to the facts of the case. Sri Chitre tried to distinguish the decision in the above case by showing that the words used in the textile mills notification are concerns whereas the material words used in the notification applicable to the sugar industry are "industry". But I have stated above that the word "industry" is used in a restricted sense in the notification quoted above and not in a general sense.

9. One of the grounds on which the Labour Appellate Tribunal based its decision in the Simplex Mills Case is that the company which owns or manages a cotton textile mill it is not necessarily confined in its activity to that industry and, therefore, it may not be convenient to extend the operation of the Bombay Industrial Relations Act to the head office of the company which may engage itself in a number of other business activities. The evidence adduced in this case shows that the staff in the respondent's head office do not deal only with the work of the respondent company but also of seven other companies. The members of the staff in the head office, are not allocated to a particular company but they do the work of all the companies.

10. The respondent company has get is clerks, typists and other employees in its factories at Kanhegaon and Kopergaon. As in the case of the textile mills the sugar companies have their clerical staff in the head office as also in the factories. The head office staff of the sugar companies is distinct and different from the staff employed in the factory premises who do work connected with the manufacture of sugar and the growing of cane and other agricultural operations to which the Bombay Industrial Relations Act applies.

11. I think, therefore, that the finding arrived at by the learned Judge in the court below is correct and it must be upheld. The result is that the appeal fails and is, therefore, dismissed.