

(1987) 09 AHC CK 0034
In the Allahabad High Court

Yogesh Chandra Khare

APPELLANT

Vs

Executive Engineer, Electricity Transmission Division and
Others

RESPONDENT

Date of Decision : 10-09-1987

Acts Referred:

Workmens Compensation Act, 1923 — Section 2(n)
Workmens Compensation Act, 1923 — Section 2(n)
Workmens Compensation Act, 1923 — Section 2(n)

Citation : (1988) 1 ACC 44

Hon'ble Judges : N.N. Mithal, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

N.N. Mithal, J.—This appeal is directed against the order passed by the Workmen Compensation Commissioner, Kanpur, dismissing the claim petition moved by the appellant on the ground that he was not a workman within the meaning of Section 2 (n) of the Workmen Compensation Act.

2. According to the appellant, he was initially appointed as a tracer in 1968 but later on he became a Draftsman and was confirmed on 1-4-1976 by the U.P State Electricity Board. On 1-8-1981, while the claimant entered a store room in connection with his work as a draftsman a coil of wire placed in one of the stands struck him in his right eye as the store room was dark. As a result of the injury, the vision of his right eye has been completely lost and, therefore, he claimed that there was a total disablement of his right eye and as a result of injury received by him, he was rendered incapable to discharge his ordinary duties as a workman. The claim lodged by him was rejected on 31-3-1983 holding that he was neither a workman nor the injury was caused while performing his duties. Aggrieved, the present appeal has been filed.

3. The short question that arises for consideration is whether the appellant was a workman within the meaning of the Act or not. It is not disputed that persons

covered under any of the categories of employment mentioned in Schedule II of the Act are workmen within the meaning of the Act. Under Sub-clause (xix) a person employed otherwise than in a clerical capacity in the generating, transforming or supplying of electrical energy etc. is a workman. The question, therefore, is whether the appellant was employed in a capacity as a clerk so as to exclude him from the definition of the word workman.

4. According to the appellant, he was employed as a Draftsman which is a work requiring skill and as such it was a technical job and not a routine work which is usually associated with a clerk. The word clerk is not defined in the Act. In volume 7-A of words and phrases, a Clerk in the general sense is defined as one employed to keep record or account, a scribe; an accountant. By clerical work, one means a person engaged as a file clerk or supply clerk in the office occasionally using typewriter and taking care of the supplies for the company. In corpus Juris Secundum volume 14, Clerk in the ordinary sense means one engaged in or hired to do, clerical work, such as book-keeping, copying, transcribing, typing, writing, tabulating etc. Without being Incharge of work of special importance. In the administrative sense, the word, clerk has been defined as an assistant; subordinate a hired assistant in an office etc. Therefore, whether a person is a workman or not, to a great measure, will depend upon the nature of duties performed by the person. According to the appellant, since the duties of the appellant were that of a draftsman he could not be regarded as a clerk either in the general sense or in the administrative sense or otherwise. The Workmen Compensation Commissioner has come to the conclusion that the appellant was not a workman merely on the basis that his work had to be performed within the office premises and was clerical in nature. However, the important point to see was whether the appellant was employed in a clerical capacity or not. The emphasis had to be on the nature of employment and not on the nature of duties. Since this important aspect of the case has not been gone into and the material on the record also does not throw much light on this aspect of the matter there is no option but to remand the matter to the Commissioner under the Workmen Compensation Act for deciding the question in the light of the above.

5. In the result, the appeal is allowed. The order of the Workmen Compensation Commissioner dated 31-3-1983 is set aside and the matter is remanded to the Commissioner under the Workmen Compensation Act to give an opportunity to the parties to led necessary evidence on the nature of employment of the appellant and the amount of compensation, if any, he would be entitled to. Since the accident had taken place almost 6 years ago, it is expected that the court below will dispose of the matter expeditiously. Orders accordingly.