

MORINDA CO-OP. SUGAR MILLS LTD.

A

v.

RAM KISHAN AND ORS. ETC.

AUGUST 25, 1995

[K. RAMASWAMY AND B.L. HANSARIA, JJ.]

B

Industrial Disputes Act, 1947 : Sections 2(oo) and 25-F.

Retrenchment—Sugar Factory—Workmen—Working during crushing season only—Cessation of work consequent to closure of season—Held such a cessation is not retrenchment.

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The respondent-workmen worked in the appellant sugar factory during the crushing season only and consequent to closure of the season, they ceased to work. On the question whether such a cessation would amount to retrenchment, the Labour Court and the High Court held that since the respondents had worked for more than 240 days in a year, they were retrenched workmen within the meaning of Section 2(oo) of Industrial Disputes Act, 1947; the requirements of Section 25-F of the Act having not been complied with their retrenchment was void and consequently they were entitled to reinstatement.

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Allowing the Sugar Mills's appeal, this Court

HELD: The respondents were not working throughout the season. They worked during crushing seasons only. Since it is only a seasonal work, the respondents cannot be said to have been retrenched, in view of what is stated in clause (bb) of Section 2(oo) of the Act. Under these circumstances, the view taken by the Labour Court and the High Court is illegal. [86-G-H]

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CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 8058-60 of 1995.

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From Judgment and Order dated 29.7.94 of the Punjab & Haryana High Court in C.W.P. Nos. 10033, 10034 and 10035 of 1994.

N. D. Garg for the Appellant.

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A S.K. Verma for the Respondents.

The following Order of the Court was delivered :

Leave granted.

B We have heard the counsel on both sides. The Labour Court and the High Court in the impugned judgment dated July 29, 1994 made in CWP Nos. 10033-35 of 1994 concluded that since the respondents had worked for more than 240 days in a year, they were retrenched workmen within the meaning of Section 2 (oo) of Industries Dispute Act, 1947 (for short, 'the Act') Consequently, requirements of Section 25F of the Act need to be satisfied but it was not done. So, held that the retrenchment is void and consequently reinstatement of the respondents was directed. Thus, this appeal by special leave.

D When we directed the appellants to furnish the crushing seasons in which the factory worked, they filed additional affidavit and for the years 1987-88 to 1993-94, crushing seasons were given as follows :

Crushing Year	Commenced on	Closed on
1987-88	7.11.1987	18.4.1988
1988-89	28.11.1988	17.4.1989
E 1989-90	19.11.1989	30.4.1990
1990-91	25.10.1990	7.3.1991
1991-92	30.10.1991	17.4.1992
1992-93	28.10.1992	16.4.1993
1993-94	2.11.1993	10.3.1994

F It would thus be clear that the respondents were not working throughout the *season*. They worked during crushing seasons only. The respondents were taken into work for the season and consequent to closure of the season, they ceased to work.

G The question is whether such a cessation would amount to retrenchment. Since it is only a seasonal work, the respondents cannot be said to have been retrenched in view of what is stated in clause (bb) of Section 2 (oo) of the Act. Under these circumstances, we are of the opinion that the view taken by the labour Court and the High Court is illegal. However, the appellant is directed to maintain a register for all workmen engaged during the seasons enumerated hereinbefore and when the new season

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starts the appellant should make a publication in neighbouring places in which the respondents normally live and if they would report for duty, the appellant would engage them in accordance with seniority and exigency of work. A

The appeals are accordingly allowed but, in the circumstances, without costs.

T.N.A.

Appeals allowed.