

A HIMANSHU KUMAR VIDYARTHI AND ORS.
v.
STATE OF BIHAR AND ORS:

MARCH 26, 1997

B [K. RAMASWAMY AND D.P. WADHWA, JJ.]

Industrial Disputes Act, 1947 :

C *S.25-F—Retrenchment—Cooperative Training Institute in State of Bihar—Daily wage employees—Termination of services—Held, every department of Government cannot be treated to be "industry"—When appointments are regulated by statutory rules, concept of "industry" to that extent stands excluded—Disengagement of daily wage employees from service cannot be construed to be retrenchment under the Act—Concept of "retrenchment" cannot be stretched to such an extent as to cover these employees—Since they are only daily wage employee and have no right to the posts, their disengagement is not arbitrary.*

D CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
No. 7957 of 1996.

E From the Judgment and Order dated 1.7.96 of the Patna High Court in L.P.A. No. 1231 of 1995.

Ranjan Mukherjee for the Petitioners.

F The following Order of the Court was delivered :

Delay condoned.

G This special leave petition arises from the judgment of the Division Bench of the Patna High Court, made on 1.7.1996 in LPA No. 1213/95 confirming the order of the learned single Judge in CWJC No. 2311/95.

H The admitted position is that the petitioner No. 1 came to be appointed as Assistant, Petitioner No. 2 as Driver and Petitioner Nos. 3 to 5 as Peons on different dates, viz., on August 1, 1988, November 10, 1989, May 31, 1987 and April 22, 1992. They were appointed in the Co-operative Training Institute, Deoghar by its Principal. They are admittedly daily wage

employees. Their services came to be terminated by the Principal. Calling A
that termination in question, they filed a writ petition in the High Court.
The main grievance of the petitioners before us is that termination of their
services is in violation of Section 25F of the Industrial Disputes Act, 1947.
The question for consideration, therefore, is : whether the petitioners can B
be said to have been 'retrenched' within the meaning of Section 25-F of
the Industrial Disputes Act? Every department of the Government cannot
be treated to be "industry". When the appointments are regulated by the
statutory rules, the concept of "industry" to that extent stands excluded.
Admittedly, they were not appointed to the posts in accordance with the C
rules but were engaged on the basis of need of the work. They are
temporary employees working on daily wages. Under these circumstances,
their disengagement from service cannot be construed to be a retrenchment
under the Industrial Disputes Act. The concept of "retrenchment",
therefore, cannot be stretched to such an extent as to cover these
employees. The learned counsel for the petitioners seeks to contend that
in the High Court, the petitioners did not contend that it is a case of D
retrenchment but termination of their services is arbitrary. Since they are
only daily-wage employees and have no right to the posts, their disengage-
ment is not arbitrary.

The special leave petition is accordingly dismissed.

R.P.

Petition dismissed. E