

A

KAPUS EKADHIKAR KARMACHARI SANGH

v.

STATE OF MAHARASHTRA AND ANR.

APRIL 11, 2000

B

[M. JAGANNADHARAO, S.N. PHUKAN AND S.N. VARIAVA, JJ.]

*Maharashtra Raw Cotton (Procurement, Processing and Marketing) Act, 1971 : Sections 2(j) and 42.*

C

*Section 2(j)—Interpretation of—Held does not refer to the nature of employment—It only refers to the period of season.*

D

*Writ filed by petitioner—Prayer for quashing the award passed by Industrial Tribunal—Writ dismissed by High Court relying upon a Judgment of the Supreme Court—Appeal before Supreme Court—Contention that judgment relied upon by High Court was per incuriam as the definition of “cotton season” given in section 2(j) was not considered—Held submission made was not correct—There was no merit in the contention.*

E

*Maharashtra State Co-operative Cotton Growers’ Marketing Federation Ltd. & Anr. v. Employees Union & Anr., [1994] Supp 3 SCC 385, referred to.*

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 61 of 1998.

F

From the Judgment and Order dated 28.7.97 of the Bombay High Court in W.P. No. 2134 of 1988.

H.N. Salve, Solicitor General, H.W. Dhabe, S.B. Wad, Manoj Kumar, A.S. Bhasme, Manish Pitale, A.K. Sanghi and S.S. Shinde for S.V. Deshpande for the appearing parties.

G

The following Order of the Court was delivered :

This S.L.P. has been filed against the judgment of the High Court of Bombay, Aurangabad Bench, dated 28.7.1997 in W.P.(C) No. 2134/1998.

H

The High Court dismissed the Writ Petition filed by the petitioner (Kapus Ekadhikar Karmachari Sangh), for quashing the award passed on

27.9.1988, by the Industrial Court in complaint No. 175 of 1987. The High Court dismissed the Writ Petition mainly relying upon the Judgment, in *Maharashtra State Co-operative Cotton Growers' Marketing Federation Ltd. and Anr. v. Employees Union & Anr.* [1994] Supp 3 SCC 385. The material part of the order of this Court reads as follows :

“The State Government under Section 42 of the Maharashtra Raw Cotton (Procurement, Processing & Marketing) Act, 1971, appointed the Maharashtra Cooperative Marketing Federation (hereinafter referred to as ‘Marketing Federation’), a cooperative society, as the chief agent to implement the Cotton Monopoly Procurement Scheme (the ‘Cotton Scheme’). The Marketing Federation was before that date engaged in the marketing of several commodities. From that date onwards till August 31, 1984, it continued to act as the chief agent of the State Government for procurement, processing and marketing of cotton as well. For this purpose it recruited and maintained a separate section with a separate staff. The staff consisted of those who were needed throughout the year and those who were needed only during the season. The cotton trade (which expression will include procurement, processing and manufacturing of cotton) is mostly in Vidarbha, Marathwada and Khandesh region, and commences roughly in the first week of November and extends up to April of the next year. The Cotton Scheme introduced by the Government has three aspects - (i) procurement (ii) processing, and (iii) marketing. The first two activities extend over four to six months in a year depending upon the extent of the availability of the crop, the third stage, viz., the marketing and also the function of maintenance of accounts are spread over throughout the year. The seasonal employees engaged in the said two activities consist of Supervisors etc. who work at the collection centres and the processing centres. On an average, the seasonal employees are about twice the number of the perennial employees”.

At the time when the S.L.P. came up for admission, this Court passed an order on 19.1.98 as follows :

“It is contended by the learned counsel for the petitioner that in *Maharashtra State Cooperative Cotton Growers' Marketing Federation Ltd. & Anr. v. Employees' Union & Anr.*, reported in [1994] 3 Supp. SCC 385, the definition of “Cotton Season” was contained in

A Maharashtra Raw Cotton (Procurement, Processing & Marketing) Act, 1971 was not considered and therefore the decision required consideration so far as the season employees are concerned.

Issue notice”.

B We, therefore, heard learned counsel for the petitioner. We have considered his submissions in the light of the definition of “Cotton Season” in Section 2(j) of the Maharashtra Raw Cotton (Procurement, Processing & Marketing) Act, 1971. Section 2(j) defines “Cotton Season” as follows :

C “Cotton Season” means the period from the 1st day of July of any year to the 30th day of June of the next year (both days inclusive)”.

D After hearing counsel on both sides, we are of the view that his submission that this definition was not kept in mind when this Court decided the earlier matter in 1994 is not correct. A reference to para 15 of the judgment of this Court in the said case indicates that though Section 2(j) was not specifically referred to in that para, this Court definitely had the definition in mind.

This is clear from the following observations made in the said judgment :

E “Although some attempt was made before us on behalf of the respondent-Union to show that the operation of procuring and processing of cotton is carried on throughout the year, there is nothing on record to support the said contention. On the other hand, the record shows that out of the three operations under the Scheme, the procurement and processing of cotton lasts on an average only for six months from November to April in the principal cotton regions, viz., Vidarbha, Marathwada and West Kandesh and rarely extends beyond that period depending upon the cotton crop. In fact, if the crop is less, the said period ends even earlier. In western Maharashtra, where there is scant crop of cotton, the procurement and processing season lasts only for about four months from August to November. Hence the staff needed for procurement and processing is only for about six months on an average but never beyond 7 to 8 months in any year. It is only the operation of marketing which goes on throughout the year and for the marketing as well as for the maintenance of accounts the staff is needed throughout the year”.

H

We are, therefore, of the view that there is no merit in the contention that Section 2(j) was not kept in mind while the judgment was rendered in the earlier case. A

Learned Solicitor General appearing for the respondent has pointed out that this very point based on Section 2(j), was raised in the review application earlier and that the said petition was rejected. That would show that the Judges who decided the above case were clearly of the opinion that there was nothing in this very point that was raised in the review petition. B

Even on merits, we are of the opinion that Section 2(j) is not of much relevance as it does not refer to the nature of employment, but only refers to the period of the "Season". It has no bearing on the nature of employment of the various persons during the season. C

For the aforesaid reasons, the Special Leave Petition is dismissed.

T.N.A.

Petition dismissed.