

M/S. AWAZ PRAKASHAN PRIVATE LIMITED

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v.

PRAMOD KUMAR PUJARI

APRIL 2, 2003

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[K.G. BALAKRISHNAN AND P. VENKATARAMA REDDI, JJ.]

Industrial Disputes Act, 1947:

Retrenchment—Reporter of a newspaper—Retrenchment of—Challenged as effected without complying with provisions of the Act—Labour Court ordered reinstatement—Employer's contention before High Court that Industrial Disputes Act had no application to the case rejected—Held, in view of provisions of ss. 3 and 11 of Working Journalists and other Newspaper Employees (Conditions of Service and Miscellaneous Provisions) Act, 1955, it cannot be said that the Board constituted under 1955 Act had the jurisdiction and not the Labour Court—The Board constituted u/s 11 of 1955 Act is not a substitute for Labour Court—The Board is mainly for considering the working conditions of the newspaper employees and also to fix rates of wages of working journalists from time to time—The provisions contained in the 1955 Act do not say that all disputes relating to working journalists shall be considered and decided by the Board—The Board can decide only those disputes which are referred to it—Besides, the employer did not raise any objection before Labour Court as to its jurisdiction to decide the dispute—Nor was the reference order challenged on this ground—High Court rightly dismissed employer's writ petition—Working Journalists and Other Newspapers (Conditions of Service and Miscellaneous Provisions) Act, 1955—Ss. 3 and 11.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 7458 of 2000.

From the Judgment and Order dated 13.1.1999 of the Patna High Court in LPA 51/98(R).

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S.K. Sinha for the Appellant.

The following Order of the Court was delivered.

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A The appellant challenges the Judgment of the Patna High Court in LPA
 No. 51 of 1999 (R). The appellant was running a printing press and was
 publishing a daily newspaper by name Awaz. The respondent was a Reporter
 of the newspaper at Ranchi. According to the appellant, he closed down the
 printing press and stopped the publication of the said newspaper and, therefore,
 B the services of the respondent were not required and he was retrenched from
 service with effect from 1.7.89. The respondent contended that his
 retrenchment was effected without complying with the provisions contained
 in the industrial Disputes Act, 1947 and he sought a reference under that Act.
 The appellant did not appear before the Labour Court to contest the
 proceedings. The Labour Court at Ranchi, in Ref. Case No. 12 of 1992,
 C passed an award directing the appellant to reinstate the respondent with back
 wages. According to the appellant, he came to know of the award only on 28.
 9. 1994 and thereafter he filed a writ petition before the Patna High Court.
 Learned Single Judge dismissed the Writ Petition mainly on the ground of
 delay. The appellants contention that the provisions contained in the I. D. Act
 had no application was rejected by the learned Single Judge. Aggrieved by
 D the same, the appellant preferred an LPA and the Division Bench also found
 that the pleas raised by the appellant were not maintainable and the LPA was
 dismissed. Aggrieved by the same, the present appeal is filed.

E We heard the appellant's Counsel. The main contention urged by the
 appellant's Counsel is that respondent was a working Journalist and, therefore,
 the award passed by the Labour Court under the provisions of the I. D. Act
 was without jurisdiction and that provisions contained in the Working
 Journalists and other Newspaper Employees (Conditions of Service) and
 Miscellaneous Provisions Act, 1955 are applicable in his case and the Board
 constituted under the provisions of the said Act alone had jurisdiction to deal
 F with the question of retrenchment or removal of the newspaper employees or
 Working Journalists from service. The appellant's Counsel relied on Section
 3 and section 11 of the Act which read as follows:-

"3. Act 14 of 1947 to apply to working journalists-

- G (1) The provisions of the Industrial Disputes Act, 1947, as in force
 for the time being, shall subject to the modification specified in
 sub-section (2), apply to, or in relation to working journalists as
 they apply to, or in relation to, workmen within the meaning of
 that Act.
- H (2) Section 25F of the aforesaid Act, in its application to working

journalists, shall be construed as if in clause (a) thereof, for the period of notice referred to therein in relation to the retrenchment of a workman, the following periods of notice in relation to the retrenchment of a working journalist had been substituted namely-

- (a) six months, in the case of an editor, and
- (b) three months, in the case of any other working journalist.

11. Powers and procedure of the Board. -

- (1) Subject to the provisions, contained in sub-section (2), the Board may exercise all or any of the powers which an Industrial Tribunal constituted under the Industrial Disputes Act, 1947, exercises for the adjudication of an *industrial dispute referred to it* and shall, subject to the provisions contained in this Act, and the rules, if any, made thereunder, have power to regulate its own procedure.
- (2) Any representations made to the Board and any documents furnished to it by way of evidence shall be open to inspection on payment of such fee as may be prescribed by any person interested in the matter.
- (3) If, for any reason, a vacancy occurs in the office of Chairman or any other member of the Board, the Central Government shall fill the vacancy by appointing another person thereto in accordance with the provisions of Section 9 and any proceeding may be continued before the Board so reconstituted from the stage at which the vacancy occurred. ”

(Emphasis supplied)

On a close perusal of the above provisions, it is clear that the contention raised by the appellant has no force. The Board constituted by the Central Government can decide only those disputes which are referred to the Board. Section 11 of the said Act further says that in case of any such reference, the Board may exercise all or any of the powers which are vested in industrial Tribunal constituted under the I. D. Act, 1947, and the rules framed thereunder. The provisions contained in the Act do not say that all disputes relating to Working Journalists shall be considered and decided by the Board. The Board constituted by the Central Government is mainly for considering the working conditions of the newspaper employees and also to fix rates of wages of working Journalists from time to time. The Board constituted under Section 11 is not a substitute for Labour Court. Under the Act the Board

- A** would consist of 10 persons-3 persons representing the employer, 3 persons representing the working employee and 4 other independent person, one of whom shall be a person who is or has been a Judge of a High Court and who shall be appointed by the Government as the Chairman thereof. The contention of the appellant that respondent being a Working Journalist, the present dispute relating to his retrenchment should have been referred to this Board has no force and it is only to be rejected.

- B** Incidentally, it may be mentioned that the appellant did not raise any objection before the Labour court as to its jurisdiction to decide the dispute relating to the retrenchment of the respondent. The Reference Order was not challenged by the appellant by contending that the Labour Court had no jurisdiction to decide the question. The appellant challenged the award passed by the Labour Court belatedly and the appellant's Writ Petition has been rightly rejected by the High Court.

- C** The Civil Appeal is without any merits and the same is dismissed.
- D** There will be no order as to costs.

R.P.

Appeal dismissed.