

PUNJAB STATE ELECTRICITY BOARD AND ANR.

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v.

SUDESH KUMAR PURI

FEBRUARY 9, 2007

[DR. ARIJIT PASAYAT AND TARUN CHATTERJEE, JJ.]

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Industrial Disputes Act, 1947—s.2(oo)(bb)—Applicability of—Person engaged as private Meter Reader on contract basis—Payment made at fixed rate on basis of number of meters read—On expiry of contract period, services dispensed with—Held: Engagement being for specific period and conditional, s.2(oo)(bb) was clearly applicable.

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Appellant-Board engaged Respondent as a private Meter Reader on contract basis. During the period of contract, Respondent was paid a sum of Re. 1 for each meter reading. At the expiry of contract period, and in view of appointment of regular Meter Readers, services of Respondent were dispensed with.

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The Labour Court held that Respondent had worked in the capacity of a Meter Reader for a considerably long period; that he had completed service of more than 240 days within the preceding twelve months, and he having been retrenched without following the procedure provided under s.25-F of the Industrial Disputes Act, 1947, was entitled to be re-instated. The High Court upheld the order of re-instatement holding that the contract was a camouflage by the Appellant-Board with a view to avoid the provisions of the Industrial Disputes Act, 1947. Hence the present appeals.

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Allowing the appeals, the Court

HELD: There was an agreement governing engagement. The payment was made per meter reading at a fixed rate and there was no regular employment ever offered to any of the respondents. The material on record clearly established that the engagement of the respondent was for specific period and conditional. It appears that on the appointment of regular meter readers, the engagement has been dispensed with. The contracts clearly governed the terms of engagement. The provisions of Section 2(oo)(bb) of the Act clearly applies to the facts of the present case. Above being the position,

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A the orders passed by the Labour Court and the High Court are clearly untenable and are quashed. [Paras 7, 9 & 10] [411-G-H; 412-D-E]

Steel Authority of India Ltd. And Ors. v. National Union Waterfront Workers and Ors., [2001] 7 SCC 1, distinguished.

B CIVIL APPELLATE JURISDICTION : Civil Appeal No. 648 of 2007.

From the final Judgment and Order dated 21.3.2005 of the High Court of Punjab and Haryana at Chandigarh, in C.W.P. No. 18634/2003.

WITH

C C.A. Nos. 649, 650 and 651 of 2007.

Jayshree Anand, Karunakar Mahalik and Ashwani Bhardwaj for the Appellants.

D R.K. Kapoor, M.K. Verma and Anis Ahmed Khan for the Respondent.

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Leave granted.

E 2. Challenge in these appeals is to the consolidated orders passed by the Division Bench of the Punjab and Haryana High Court dismissing the four writ petitions filed by the appellant No.1-Punjab State Electricity Board (in short the 'Board'). The respondent in each case was engaged as Meter Reader on contract basis by the appellant-Board. After disengagement he made a claim stating that he had worked for a considerably long continuous period, his services have been terminated by the Board without following any procedure and without payment of retrenchment compensation. Claim for reinstatement with back wages was made. On failure of the conciliation proceedings, matter was referred by the concerned State Government to the Presiding Officer, Labour Court, Ludhiana (hereinafter referred to as the 'Labour Court') under Section 10 of the Industrial Disputes Act, 1947 (in short the 'Act'). Stand of the appellant before the Labour Court was that the applicant was engaged as private Meter Reader on contract basis which was renewed on two occasions and at the expiry of the contract period, the services have been dispensed with. It was specifically averred that the applicant concerned had never been employed by the Board and was not a workman under the provisions of the Act. During the concerned period a sum of Re.1/- for

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reading was paid as per the contract. There was neither any monthly salary nor the claimant could be treated as a person appointed by the Board. A

3. The Labour Court held that the claimant had been engaged as a Meter Reader and had worked in that capacity for a considerably long period, his services have been terminated without notice or payment of compensation. It was concluded that the claimant had completed service for more than 240 days within the preceding twelve months, and he had been retrenched without following the procedure provided under Section 25-F of the Act, and as such was entitled to be reinstated. However, the back wages were restricted to 25%. The Board filed writ petitions questioning the award in each case. The claimants also filed writ petitions questioning quantum of back wages. B C

4. The High Court referred to a decision of this Court in *Steel Authority of India Ltd. And Ors. v. National Union Waterfront Workers and Ors.*, [2001] 7 SCC 1 in which it was held that the contract was a camouflage by the Board with a view to avoid the provisions of the Act. Accordingly, the writ petitions filed by the appellant - Board were dismissed by the impugned judgment in each case. The writ petitions filed by the respondents were also dismissed on the ground that they were not engaged on any fixed salary. D

5. Learned counsel for the appellants submitted that without any material, the Labour Court held that the contract was a camouflage. Absolutely no material was placed on record to justify such a stand and/or conclusion. It is not in dispute that there was a contract providing for payment of Re.1/- for each meter reading. The contract was renewed more than once. Merely because the meter reading work has not decreased, that cannot be a basis to hold that there was a camouflage adopted. E

6. Learned counsel for the respondents on the other hand submitted that both the Labour Court and the High Court have recorded finding about the camouflage. F

7. At the outset, it has to be noted that the decision in *Steel Authority's* case (supra) has absolutely no relevance so far as the present dispute is concerned. That relates to a case of contract labour. Present dispute is not a case of that nature. On the contrary, it appears from the materials placed on record that there was an agreement governing engagement. The payment was made per meter reading at a fixed rate and there was no regular employment ever offered to any of the respondents. The provisions of Section 2(o)(bb) of the Act clearly applies to the facts of the present case. G H

A 8. Section 2(oo)(bb) reads as follows:

“2(oo) retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include-

B (a)...

(b)...

C (bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or”

D 9. The material on record clearly established that the engagement of the respondent was for specific period and conditional. It appears that on the appointment of regular meter readers, the engagement has been dispensed with. The contracts clearly governed the terms of engagement.

E 10. Above being the position, the orders passed by the Labour Court and the High Court are clearly untenable and are quashed. In two cases the concerned respondents have been engaged again on contractual basis. It shall not be construed that we have expressed any opinion on such subsequent contractual engagement.

11. Appeals are allowed without any order as to costs.

B.B.B.

Appeals allowed.