State Of Rajasthan vs Ganeshi Lal on 10 December, 2007

Equivalent citations: AIR 2008 SUPREME COURT 690, 2008 (2) SCC 533, 2007 AIR SCW 7810, 2008 LAB. I. C. 402, (2008) 4 ALLMR 14 (SC), 2008 (1) SRJ 355, 2008 (1) CURLR 431, 2007 (14) SCALE 61, 2008 (2) RAJLW 1354, 2008 (3) KER LT 185, 2008 (4) ALL MR 14 NOC, (2008) 1 LAB LN 459, (2008) 1 SCT 294, (2008) 1 SERVLR 773, (2007) 8 SUPREME 430, (2008) 116 FACLR 180, (2008) 1 ALL WC 961

Author: Arijit Pasayat

Bench: Arijit Pasayat, P. Sathasivam

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           CASE NO.:
Appeal (civil)  3021 of 2006

PETITIONER:
State of Rajasthan

RESPONDENT:
Ganeshi Lal

DATE OF JUDGMENT: 10/12/2007

BENCH:
Dr. ARIJIT PASAYAT & P. SATHASIVAM

JUDGMENT:
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J U D G M E N T CIVIL APPEAL No.3021 OF 2006 Dr. ARIJIT PASAYAT, J.

1. Challenge in this appeal is to the order passed by a Division Bench of the Rajasthan High Court, Jodhpur, upholding the view taken by the learned Single Judge. Before the High Court challenge was to the award of the Labour Court, Bikaner.

2. Background facts are almost undisputed and are as follows:

> Respondent was working as a peon attached to the Public Prosecutor. He was getting an amount of Rs.1,000/- p.m. as a temporary employee on a contract basis. He was engaged under the Joint Legal Remembrance and Director, Litigation, Law Department, Jaipur. His services were terminated by notice dated 5.12.1998 w.e.f. 7.12.1998, and according to him, it was in violation of the provisions of Section 25-G of the Industrial Disputes Act, 1947 (in short the 'Act'). Therefore, a dispute was raised. A reference was made to the Labour Court, vide Notification No. F 1(1)(1145) L.F./2000 dated 31st July, 2000, under Section 10 of the Act. The reference was of

the following dispute:

> "Whether the termination from service on 7.12.1998 of the applicant Shri Ganeshilal son of Shri Noratmal Barber by the non-applicant (1) Additional Public Prosecutor, Rajgarh District Churu (2) Joint Law Adviser and Director Litigation, Law Department, Rajasthan Churu is proper and valid? If not then to what relief the applicant is entitled for?"

3. The claim was resisted by the present appellant on the ground that the Law department is not an industry.

4. On a reference to the Labour Court the Presiding Officer, Labour Court, held that Law department was an industry in view of what has been stated by this Court in relation to various departments, hotel, school, public works department, irrigation department. This view has been accepted by learned Single Judge who held that there was no scope for interference under Article 226 of the Constitution of India, 1950 (in short 'the Constitution').

5. The Division Bench after referring to Section 2(s) of the Act held that the view of the Labour Court was correct.

6. Learned counsel for the appellant submitted that by no stretch of imagination the Law department can be considered to be an industry. Learned counsel for the respondent on the other hand submitted that the Labour Court and the High Court were justified in their views.

7. Section 2(s) of the Act defines "workman" as follows:

> "any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, Clerical or supervisory work for hire of reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an Industrial Dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute."

8. For bringing in application of Section 2(s) of the Act, the workman must be employed in an industry. The Law department can, by no stretch of imagination, be considered as an industry.

9. Learned counsel for the appellant submitted that whether any government department can be treated as industry is under consideration of a larger Bench of this Court.

10. The Labour Court and the High Court have not even indicated as to how the Law department is an industry. Merely stating that in some cases Irrigation department, Public Works Department have been held to be covered by the expression "industry" in some decisions.

11. Reliance on the decision without looking into the factual background of the case before it is clearly impermissible. A decision is a precedent on its own facts. Each case presents its own features. It is not everything said by a Judge while giving a judgment that constitutes a precedent. The only thing in a Judge's decision binding a party is the principle upon which the case is decided and for this reason it is important to analyse a decision and isolate from it the ratio decidendi. According to the well-settled theory of precedents, every decision contains three basic postulates (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment. The enunciation of the reason or principle on which a question before a Court has been decided is alone binding as a precedent. (See: State of Orissa v. Sudhansu Sekhar Misra and Ors. (AIR 1968 SC

647) and Union of India and Ors. v. Dhanwanti Devi and Ors. (1996 (6) SCC 44). A case is a precedent and binding for what it explicitly decides and no more. The words used by Judges in their judgments are not to be read as if they are words in Act of Parliament. In Quinn v. Leathem (1901) AC 495 (H.L.), Earl of Halsbury LC observed that every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which are found there are not intended to be exposition of the whole law but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides.

12. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. V. Horton (1951 AC 737 at p.761), Lord Mac Dermot observed:

> "The matter cannot, of course, be settled merely by treating the ipsissima vertra of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."

13. In Home Office v. Dorset Yacht Co. (1970 (2) All ER 294) Lord Reid said, "Lord Atkin's speech.....is not to be treated as if it was a statute definition. It will require qualification in new circumstances." Megarry, J in (1971) 1 WLR 1062 observed:

> "One must not, of course, construe even a reserved judgment of Russell L.J. as if it were an Act of Parliament." And, in Herrington v. British Railways Board (1972 (2) WLR 537) Lord Morris said:
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> "There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case."

14. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.

15. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

> "Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

*** *** *** "Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches.

My plea is to keep the path to justice clear of obstructions which could impede it."

16. As noted above, the accepted concept of an industry cannot be applied to the Law department of the Government.

17. That being so, the view expressed by the Labour Court and the High Court is indefensible. However, it appears that the respondent has been reinstated to the post he was holding at the time of termination. In view of this fact, even though we have held that the orders passed are clearly unsustainable. We leave it to the appellant to consider whether the respondent can be continued, in view of the fact that he worked for some years.

18. The appeal is allowed to the aforesaid extent without any order as to costs.