

Andhra University Etc vs Regional Provident Fund Commissioner ... on 8 October, 1985

Equivalent citations: 1986 AIR 463, 1985 SCR SUPL. (3) 582, AIR 1986 SUPREME COURT 463, 1986 LAB. I. C. 103, 1986 UJ (SC) 31, (1986) 1 APLJ 23.2, (1986) IJR 38 (SC), 1986 SCC (L&S) 134, (1985) 2 CURLR 334, (1986) 68 FJR 6, (1985) 51 FACLR 605, (1986) 1 LBLJ 155, (1986) 1 LAB LN 64, 1985 (4) SCC 509, (1986) 1 CURCC 599, (1986) 1 SUPREME 97

Author: V. Balakrishna Eradi

Bench: V. Balakrishna Eradi, O. Chinnappa Reddy, V. Khalid

PETITIONER:
ANDHRA UNIVERSITY ETC.

Vs.

RESPONDENT:
REGIONAL PROVIDENT FUND COMMISSIONER OF ANDHRA PRAFESH AND A

DATE OF JUDGMENT08/10/1985

BENCH:
ERADI, V. BALAKRISHNA (J)
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ERADI, V. BALAKRISHNA (J)
REDDY, O. CHINNAPPA (J)
KHALID, V. (J)

CITATION:
1986 AIR 463 1985 SCR Supl. (3) 582
1985 SCC (4) 509 1985 SCALE (2)752

ACT:
Employees' Provident Funds and Miscellaneous Provisions Act, sections 1(3)(a), 2(1-C), 2(g) and 2(a), scope of - Whether the establishments namely, the Departments of Publications and Press of the Andhra and Osmania Universities are "factories" and their activities fall under "manufacture" and therefore they are governed by the provisions of the said Act - Interpretation of the word "establishment" in section 2-A.

HEADNOTE:

The Employees' Provident Funds and Miscellaneous Provisions Act applies to every establishment which is a "factory" engaged in and "industry" specified in Schedule I and in which 20 or more persons are employed. The expressions "manufacture" and "factory" are defined in section 2(1-C) and 2(g) of the Act. The establishments namely, the Departments of Publications and Press of the two Universities each employing 100 persons, run printing presses, where the work of printing of text books, journals and magazines for the various constituent and affiliated colleges as well as of various items of stationery such as admission forms to colleges, hostels and examinations, forms of memo of parks, hall' tickets, answer books, syllabi for various colleges and departments, registers, receipt books for colleges and hostels and letter heads for Universities carried out. The Regional Provident Fund Commissioner called upon the two Universities to submit their monthly returns and remit the amounts of contribution as required by the provisions of the scheme covered under the Employees' Provident Funds and Miscellaneous Provisions Act. Two writ petitions were therefore, filed by the appellants separately challenging the legality and validity of the notices issued to them by the Regional Provident Fund Commissioner, contending (i) that the Universities are purely educational institutions having a Dumber of departments, the main object of which is to impart education to the youth of the country in various branches of Students, and therefore, the Department of Publications and Press which is intended only to cater the needs and requirement of the students cannot be regarded either as a "factory" or as an "industry" attracting the provisions of the Act; ant (11) that the two Universities had their own provident

583

fund schemes for their employees and therefore, there was justification for subjecting them to the provisions of the Act. A learned Single Judge of the High Court accepting the said conventions allowed the writ petitions. However, on appeals filed by the Regional Provident Fund Commissioner, Andhra Pradesh, the Division Bench by two separate judgments set aside the judgments of the learned Single Judge and held that the Department of Publications and Press of each of the two Universities is an "establishment" which is a factory engaged in an industry specified in Schedule I, in which more than 20 persons were employed and hence the provisions of the Act ant the Scheme were applicable in respect of these Departments. Hence the appeals by special leave.

Dismissing the appeals, the Court,

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HELD : 1.1 To attract the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, two tests namely, whether there is an establishment which is a "factory" engaged in any of the scheduled industries and whether 20 or more persons are employed in the said

establishment must be fulfilled. [587 F]

1.2 Printing is one of the industries specified in Schedule I of the Act and it is admitted that much more than 20 persons are employed in the concerned establishment of the two Universities [588 A]

1.3 The Departments of Publications and Press are "factories" as defined in clause (g) of section 2 of the Act. Under the definition, "factory" means any premises, in any part of which a manufacturing process is being carried on. The Printing of text books, journals, registers, forms and various items of stationery clearly constitute "manufacture" within the meaning of the said expression as defined in clause (1-C) of section 2 of the Act. [587 G-H; 588 A]

1.4 It is therefore clear that all the requirements of clause 3(a) of section (1) of the Act are fully satisfied in the cases and hence the decision of the Division Bench of the High Court upholding the validity of the notices issued by the respondent, Regional Provident Fund Commissioner, is perfectly correct and justified. [588 A-B]

Visva Bharati v. Regional Provident fund Commissioner, West Bengal, [1983] 1 L.L.J. 332 overruled.

2.1 In construing the provisions of the Employees' Provident funds and Miscellaneous Provisions Act, it must be borne in mind that it is a beneficent piece of Social Welfare legislation aimed at promoting and securing the well being of the employees and the Court will not adopt a narrow interpretation which will have the effect of defeating the very object and purpose of the Act. [587 A-B]

2.2 Section 2-A of the Act was inserted merely for the purposes of clarifying the position that the Act applies to composite factories. It is not the intentment of the section to lay down even by remotest implication that an establishment, which is a factory engaged in an industry specified in Schedule I will not be liable for coverage under the Act merely because it is part of a larger organisation carrying on some of the activities also which may not fall within the scope of the Act. [586 G-H; 587 A]

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 126 of 1973.

From the Judgment and Order dated 21.12.70 of the Andhra Pradesh High Court in Writ Appeal No. 396 of 1971.

AND Civil Appeal No. 204 of 1973.

From the Judgment and Order dated 25.2.1972 of the Andhra Pradesh High Court in Writ Appeal No. 392 of 1971.

B.R.L. Iyengar, G.N. Rao, T.C. Gupta and Attar Singh for the Appellant.

M.S. Gujral, C.V. Subba Rao, R.N. Poddar and T.C. Sharma for the Respondents.

The Judgment of the Court was delivered by BALAKRISHNA ERADI, J. These two appeals are directed against two judgments of the Andhra Pradesh High Court dismissing two Writ Petitions filed by the appellants herein namely, the Andhra University and the Osmania University challenging the legality and validity of the notices issued to the two Universities by the Regional Provident Fund Commissioner of Andhra Pradesh intimating them that the Departments of Publications and Press wherein printing presses were being run by the two Universities, were liable for coverage under the Employees' Provident Funds and Miscellaneous Provisions Act (hereinafter called the 'Act and Scheme') and calling upon the two Universities to submit their monthly returns and remit the amounts of contribution as required by the provisions of the Scheme. The appeals have been filed on the basis of certificates of fitness granted by the High Court under Article 133 (1)(c) of the Constitution.

The common contention taken by the appellants herein in the two Writ Petitions was that the Universities are purely educational institutions having a number of departments, the main object of which is to impart education to the youth of the country in various branches of studies, that the Department of Publications and Press which is intended only to cater the needs and requirements of the students cannot be regarded either as a 'factory' or as an 'industry' and the provisions of the Act are not therefore, attracted in respect of the said department. It was also submitted in the Writ Petitions that the two Universities had their own provident fund schemes for their employees and hence there was no justification for subjecting them to the provisions of the Act. A learned Single Judge of the High Court accepted the contention of the two Universities that the Department of Publications and Press could not be regarded as an 'industry' and accordingly held that the provisions of the Act were not attracted. However, on appeals filed by the Regional Provident Fund Commissioner, Andhra Pradesh before a Division Bench of the High Court, the Division Bench by two separate judgments set aside the judgments of the learned Single Judge and held that the Department of Publications and Press of each of the two Universities is an establishment which is a factory engaged in an industry specified in Schedule I, in which more than 20 persons were employed and hence the provisions of the Act and the Scheme were applicable in respect of these Departments. In these appeals, the appellants namely, the two Universities, have challenged the correctness of the aforesaid conclusion recorded by the Division Bench of the High Court.

It is common ground that the Department of Publications and Press of the two Universities (appellants) runs printing presses, where the work of printing of text books, journals and magazines for the various constituent and affiliated colleges as well as of various items of stationery such as admission forms to colleges, hostels and examinations, forms of memo of marks, hall tickets, answer books, syllabi for various colleges and departments, registers, receipt books for colleges and hostels and letter heads for Universities is carried out. About 100 persons are employed in connection with

the said activity in the Department of Publications and Press of each University.

Section 1(3)(a) of the Act lays down that subject to the provisions contained in Section 16 (those provisions are admittedly not applicable to the cases before us), the Act applies to every establishment which is a 'factory' engaged in any 'industry' specified in Schedule I and in which 20 or more persons are employed. The expression "factory" has been defined in Section 2(g) as meaning "any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on, whether with the aid of power or without the aid of power."

Section 2(1-c) defines "manufacture" or 'manufacturing process' as meaning 'any process for making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal.'

It was not disputed before the High Court that the Department of Publications and Press of the two Universities were 'establishments' and the only contention urged was that the said Departments were not 'factories' and the activity carried on therein did not constitute an 'industry'. However, before this Court a new point was urged on behalf of the appellants that for the purposes of determining the applicability of the Act the entire University must be treated as an establishment and if the University cannot be said to be a factory engaged in an industry, there cannot be any question of coverage under the Act and the Scheme. For sustaining this contention support was sought to be derived from Section 2-A of the Act, which is in the following terms :-

"2-A Establishment to include all departments and branches -

For the removal of doubts, it is hereby declared that where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as part of the same establishment."

We are unable to see how this provision is of any assistance to the appellants. Section 2-A was inserted in the Act merely for the purposes of clarifying the position that the Act applies to composite factories. It is not intentment of the section to lay down even by remotest implication that an establishment, which is a factory engaged in an industry specified in Schedule I will not be liable for coverage under the Act merely because it is part of a larger organisation carrying on some other activities also which may not fall within the scope of the Act. In construing the provisions of the Act, we have to bear in mind that it is a beneficent piece of Social Welfare legislation aimed at promoting and securing the well being of the employees and the Court will not adopt a narrow interpretation which will have the effect of defeating the very object and purpose of the Act. Once it is found that there is an establishment which is a 'factory' engaged in an 'industry' specified in Schedule I and employing 20 or more persons, the provisions of the Act will get attracted to the case and it makes no difference to this legal position that the establishment is run by a larger organisation which may be carrying on other additional activities falling outside the Act.

Our attention was drawn to a decision of a learned Single Judge of the Calcutta High Court in *Visva Bharati v. Regional Provident Fund Commissioner, West Bengal*, [1983] 1 L.L.J. 332 wherein it was held that the provisions of the Act were inapplicable in respect of a "Silpa Sadan", Agricultural Farm and a Hospital run by the Visva-Bharati University. The learned Judge was of the view that "if the University as an establishment does not come under the provisions and or the purview of the Act, the different branches or departments of the University which the University empowered and or entitled to maintain under the provision of the Visva Bharati Act cannot be brought within the mischief of the Act." We have no hesitation to hold that the aforesaid view expressed by the learned Judge is not correct or sound and that the said decision does not lay down correct law.

As already indicated, the true tests to be applied is whether there is an establishment which is a 'factory' engaged in any of the scheduled industries and whether 20 or more persons are employed in the said establishment. If the answer is in the affirmative, the provisions of the Act are clearly attracted.

In the cases before us there cannot be any doubt that the establishments namely, the Departments of Publications and Press are 'factories' as defined in clause (g) of Section 2 of the Act. Under the said definition factory means any premises in any part of which any manufacturing process is being carried on. The printing of text books, journals, registers, forms and various items of stationery clearly constitute 'manufacture' within the meaning of the said expression as defined in clause (1-c) of Section 2 of the Act. That printing is one of the industries specified in the Schedule is not in dispute. It is also not disputed that much more than 20 persons are employed in the concerned establishments of the two Universities. Thus all the requirements of clause (3) (a) of Section 1 of the Act are fully satisfied in these cases and hence the conclusion recorded by the High Court that the establishments in question are liable for coverage under the Act is perfectly correct and justified.

It follows that these appeals are totally devoid of merits. They will accordingly stand dismissed with costs.

S.R.

Appeals dismissed.