

Lalit Hari Ayurvedic College Pharmacy, ... vs Lalit Hart Ayurvedic College Pharmacy ... on 29 January, 1960

Equivalent citations: AIR1960SC1261, (1960)ILLJ250SC, AIR 1960 SUPREME COURT 1261, 1960-61 19 FJR 169 1960 (1) LABLJ 250, 1960 (1) LABLJ 250

Author: P.B. Gajendragadkar

Bench: P.B. Gajendragadkar, K. Subba Rao, K.C. Das Gupta

JUDGMENT

P.B. Gajendragadkar, J.

1. This appeal by special leave arises from an industrial dispute between Lalit Hari Ayurvedic College Pharmacy, Pilibhit (hereinafter called the appellant) and L. H. Ayurvedic College Pharmacy Workers' Union, Pilibhit (hereinafter called the respondent). It appears that the appellant had terminated the services of Mr. Mahesh Chandra Sharma, a clerk in its employment and the case of this clerk was taken up by the respondent on the ground that the termination of his services was unjustified and illegal. The dispute thus raised by the respondent was referred for adjudication by the State Government of Uttar Pradesh. The tribunal held that the dispute between the parties was an industrial dispute and overruled the objection raised by the appellant that the activity carried on by it was not an industry under Section 2(j) of the Industrial Disputes Act. The tribunal also found that the dismissal of Mr. Sharma was illegal. In the result the case set up by the respondent was upheld and an order was passed for the reinstatement of Mr. Sharma.

2. This award was challenged by the appellant before the Labour Appellate Tribunal; but the appellant's appeal failed and the award passed by the tribunal was confirmed. It appears from the decision of the Labour Appellate Tribunal that only one point was raised before the said appellate tribunal, and that was whether or not the dispute in question was an industrial dispute. The merits of the award were otherwise not challenged. The Appellate Tribunal has found that the Pharmacy run by the appellant sells medicines in the market and realises about a lakh of rupees per annum, whereas in the hospital run by the appellant about 30 per cent of the medicines manufactured in the Pharmacy are consumed; and about 70 per cent are sold in the market. The plea raised by the appellant that the hospital activity did not amount to an industry was rejected, and the contention urged by the appellant that the Pharmacy and the hospital were run for the benefit of the students was also rejected. It appeared to the Appellate Tribunal that the students were not taught in the Pharmacy although it may be that in order to give the students an idea of large-scale production of Ayurvedic medicines students may be brought to the Pharmacy now and then; the primary object of the Pharmacy was to manufacture Ayurvedic medicines for sale in the market. It is on these findings

that the appellate tribunal confirmed the conclusion of the original tribunal and held that the Pharmacy was an industry.

3. We have already held in *State of Bombay v. The Hospital Mazdoor Sabha*, Civil Appeal No. 712 of 1957 decided today:

that conducting hospitals is an industry under Section 2(j), and it has been conceded by the learned Solicitor-General, who appeared for the appellant in this appeal, that if that is the view we take, nothing more can be effectively said in the present appeal. He, however, attempted to argue that in reaching its final conclusion the Labour Appellate Tribunal has referred to some evidence in another arbitration proceeding which was not a part of the record of the present proceedings. In our opinion, even if this argument was valid it would make no difference to the final decision of the appeal. On the broad facts held proved there can be no doubt that the activity of the appellant is an undertaking under Section 2(j). We ought to add that in this appeal we are not called upon to decide whether running an educational institution would be an industry under the Industrial Disputes Act.

4. In the result the appeal fails and must be dismissed with costs.