

State Of Haryana vs Randhir Singh on 29 September, 1993

Equivalent citations: 1995 SCC, SUPL. (1) 144, AIRONLINE 1993 SC 411

Author: A.M. Ahmadi

Bench: A.M. Ahmadi, N Venkatachala

PETITIONER:
STATE OF HARYANA

Vs.

RESPONDENT:
RANDHIR SINGH

DATE OF JUDGMENT 29/09/1993

BENCH:
AHMADI, A.M. (J)
BENCH:
AHMADI, A.M. (J)
VENKATACHALA N. (J)

CITATION:
1995 SCC Supl. (1) 144

ACT:

HEADNOTE:

JUDGMENT:

ORDER The short question which arises in these two appeals is in regard to the jurisdiction of the civil court to entertain the suit challenging the imposition of penalty of withholding of certain increments on the delinquent having been found guilty of misconduct under the relevant Civil Services (Punishment and Appeal) Rules, 1952. The trial court dismissed the suit holding that it had no jurisdiction since according to it the case was covered by Section 2(a) of the Industrial Disputes Act read with Item No. 11 of Schedule III thereof. In appeal the learned Additional District Judge, Rohtak reversed this order of the trial court holding that the delinquent-plaintiffs had not contended breach of any standing orders but had merely contended that the impugned orders were governed under the 1952 Rules referred to earlier and, therefore, the right or liability arose under common law and hence attracted Principle No. 2 laid down in the judgment of this Court in Premier

Automobiles Ltd. v. Kamlakar Shantaram Wadke¹. The High Court refused to interfere with the view taken by the appellate court. The averments in the plaint would primarily govern the question of jurisdiction. Although the plaint is not before us it is clear from paragraphs 6 and 7 of the judgment of the learned Additional District Judge, Rohtak that the delinquent-plaintiffs had not challenged the orders on the ground that they violated any standing orders but had based the challenge in 1 (1976) 1 SCC 496: 1976 SCC (L&S) 70: AIR 1975 SC 2238 common law contending that their case was governed under the Civil Services (Punishment and Appeals) Rules, 1952. The learned Additional District Judge has, therefore, recorded a finding that the case set out in the plaint was not based on Section 2(a) of the Industrial Disputes Act or on the language of the standing orders but was essentially based on the provisions contained in the 1952 Rules and, therefore, the rights and liabilities arose under common law and would attract Principle No. 2 of the Premier Automobiles¹ judgment. In the absence of anything to show to the contrary we think that the High Court was right in not interfering with the order passed by the lower appellate court and we too do not see any reason to do so in exercise of our extraordinary power under Article 136 of the Constitution. In the result, both the appeals fail and are dismissed with no order as to costs.