

Sabhajit Tewary vs Union Of India & Ors on 21 February, 1975

Equivalent citations: 1975 AIR 1329, 1975 SCC (1) 485, AIR 1975 SUPREME COURT 1329, 1975 LAB. I. C. 819, (1975) 1 LAB L J 374, 1975 ALL CRI C 156, 1975 KER LT 179, 1975 (1) SERVLR 422, 47 FJR 211, 30 FACLR 212, 1975 3 SCR 616, 1975 (1) CALLJ 374, 1975 (1) SCWR 360, 1975 (1) SCC 485

Author: A.N. Ray

Bench: A.N. Ray, Kuttyil Kurien Mathew, Y.V. Chandrachud, A. Alagiriswami, A.C. Gupta

PETITIONER:

SABHAJIT TEWARY

Vs.

RESPONDENT:

UNION OF INDIA & ORS.

DATE OF JUDGMENT 21/02/1975

BENCH:

RAY, A.N. (CJ)

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RAY, A.N. (CJ)

MATHEW, KUTTYIL KURIEN

CHANDRACHUD, Y.V.

ALAGIRISWAMI, A.

GUPTA, A.C.

CITATION:

1975 AIR 1329

1975 SCC (1) 485

CITATOR INFO :

R 1976 SC 888 (10)

RF 1976 SC 2216 (7)

RF 1979 SC 1628 (31)

RF 1981 SC 212 (38,42)

R 1981 SC 487 (13)

R 1981 SC 1395 (10)

D 1984 SC 541 (8,12,13)

RF 1986 SC 1571 (50,52)

RF 1988 SC 469 (6,7,8,10)

RF 1992 SC 76 (8)

ACT:

Constitution of India, Arts, 12 and 14--Council of Scientific and Industrial Research 'if authority'.

HEADNOTE:

The petitioner, a stenographer in the Council of Scientific and Industrial Research. contended that certain letters relating to his remuneration were discriminatory, as far as he was concerned, and violative of Art. 14.

Dismissing the petition,

HELD : The respondent Council is not an authority within the meaning of Art. 12 and the petitioner was, therefore, not entitled to invoke Art. 14 against it. [618B-C]

The Council does not have a statutory character like the Oil and Natural Gas Commission or the Life Insurance Corporation or the Industrial Finance Corporation. It is a society incorporated in accordance with the provisions of the Societies Registration Act. The fact that the Prime Minister is the president, or that the Government appoints nominees to the governing body or that the Government may terminate the membership, will not establish anything more than the fact that the Government takes special care that the promotion, guidance and cooperation of scientific and industrial research, the institution and financing of specific researches, establishment or development and assistance to special institutions or departments of the existing institution, . . . for- scientific study of problems affecting particular industry in a trade, and the utilisation of the result of the researches conducted under the auspices of the Council towards the development of industries in the country, are carried out in a responsible manner. [617E-H]

Praga Tools Corporation v. C. A. Imanual & Ors. [1969] 3 S.C.R. 773. Heavy Engineering Mazdoor Union v. The State of Bihar & Ors. [1969] 3 S.C.R. 995 and S. L. Agarwal v. General Manager. Hindustan Steel Ltd. [1970] 3 S.C.R. 363. referred to.

JUDGMENT:

ORIGINAL, JURISDICTION : Writ Petition No. 43 of 1972. Petition under Art. 32 of the Constitution of India. B. R. G. K. Acher, for the petitioner.

F. S. Nariman, Additional Solicitor General of India and Rameshwar Nath, for respondents Nos. 2, 3 and 4. The Judgment of the Court was delivered by RAY, C.J.-In Writ Petition No. 43 of 1972 the petitioner who is junior stenographer in the Council of Scientific and Industrial Research asked for an order declaring two letters to be discriminatory and violative of Article 14. The two letters relate to recommendations of the Finance Sub-Committee of the Council of Scientific and Industrial Research with regard to remuneration of stenographers. In short, the petitioners allegations are that he should be granted the same number of advance increments as approved and granted to new

currents.

in order to entitle the petitioner to impeach the circular on the ground of infraction of Article 14 and 16, the petitioner has to establish that the Council of Scientific and Industrial Research is an authority within the meaning of Article 12 of the Constitution.

The Council is a society registered under the Societies Registration Act. Reliance was placed by counsel for the petitioner on these features of the society. Under Rule, 3, the Prime Minister of India is the ex-officio President of the Society. The Governing Body under Rule 30 consists of inter alia some persons appointed by the Government of India representing the administrative Ministry under which the Council of Scientific and Industrial Research is included, and the Ministry of Finance and one or more members appointed by the Government of India. The Government of India may terminate the membership of any member or at one and the same time of all members other than the ex-officio members of the Governing Body. Rule 45 states that the Governing Body shall have the management of all the affairs and funds of the Society. Rule 46 states that the Governing Body shall have power, with the sanction of the Government of India to frame, amend or repeal bye-laws not inconsistent with the rules for the administration and management of the affairs of the Society and in particular to provide for the terms and tenure of appointments, employments, allowances, rules of discipline and other conditions of service of the officers and staff of the Society. Reference was also made to the Government of India (Allocation of Business) Rules, 1961 and in particular to page 76 where it is stated that all matters relating to the Council of Scientific and Industrial Research are under the department of Science and Technology.

Extracting the features as aforesaid, it was contended that these would indicate that the Council of Scientific and Industrial Research was really an agency of the Government. This contention is unsound. The Society does not have a statutory character like the Oil and Natural Gas Commission, or the Life Insurance Corporation or Industrial Finance Corporation. It is a society incorporated in accordance with the provisions of the Societies Registration Act. The, fact that the Prime Minister is the President or that the Government appoints nominees to the Governing Body or that the, Government may terminate the membership will not establish anything more than the fact that the Government takes special care that the promotion, guidance and co-operation of scientific and industrial research, the institution and financing of specific researches, establishment or development and assistance to special institutions or departments of the existing institutions for scientific study of problems affecting Particular industry in a trade, the utilisation of the result of the researches conducted under the auspices of the Council towards the development of industries in the country are carried out in a responsible manner.

This Court has held in *Praga Tools Corporation v. C. A. Imanul & Ors.* [1969] 3 S.C.R. 773. *Heavy Engineering Mazdoor Union v. The State of Bihar & Ors.* [1969] 3 S.C.R. 995 and in *S. I., Agarwal v. General Manager Hindustan Steel Ltd.* [1970] 3 SC.R. 363 that the Praga Tools Corporation, Heavy Engineering 70 Sup. CI/75 Mazdoor Union and Hindustan Steel Ltd. are all companies incorporated under the Companies Act and the employees of these companies do not enjoy the protection available to Government servants as contemplated in Article 311. The companies were held in these cases to have independent existence of the Government and by the law relating to corporations.

These could not be held to be departments of the Government.

For these reasons we are of opinion that the Council of Scientific and Industrial Research is not an authority within the meaning of Article 12 of the Constitution. The writ petition is dismissed. Parties will pay and bear their own costs in this Writ Petition.

V.P.S.

Petition dismissed.