Supreme Court of India
32Dhagamwar Narsingh vs S. S. Grewal on 9 October, 1961
Equivalent citations: 1962 AIR 422, 1962 SCR Supl. (1) 32
Author: A Sarkar
Bench: Sarkar, A.K.

PETITIONER:
32DHAGAMWAR NARSINGH

Vs.

RESPONDENT:
S. S. GREWAL

DATE OF JUDGMENT:
09/10/1961

BENCH:
SARKAR, A.K.
BENCH:
SARKAR, A.K.
GAJENDRAGADKAR, P.B.
WANCHOO, K.N.
GUPTA, K.C. DAS

CITATION:
1962 AIR 422 1962 SCR Supl. (1) 32

ACT:
Mine-Appeal-Chief Labour Officer of Company Termination of service by company-Appeal to Chief Inspector of Mines, if maintainab1e-Chief Labour Officer, if Welfare Officer Mines Rules, 1955, rr. 72, 73 and 74.

HEADNOTE:
The appellant was appointed as the Chief Labour officer by the Company in 1947. In December; 1955, the company terminated his services The appellant, claiming to be a Welfare officer, preferred an appeal to the Chief Inspector of Mines under r. 74(2) of the Mines Rules, 1955.
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Held, that the appellant was not a Welfare officer and as such could not prefer an appeal under r. 74 (2). The Welfare officer mentioned in r. 74 (2) is the same officer as is mentioned in r. 72 (1) which rule contemplates a Welfare officer appointed in respect of one mine. But the

appellant was an officer of several mines of the Company and not of one of such mines only.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 548 of 1958.

Appeal by Special Leave from the judgment and order dated March 27, 1957, of the Patna High Court in Misc. Judicial Case No. 315 of 1956.

B. Sen, P. W. Sahasrabudhe and A. C. Ratnaparkhi. for the Appellant K. L. Hathi and R. H. Dhebar, for Respondent No. 1.

N. C. Chatterjee and S. N. Mukerji, for Respondent No. 2.

1961. October 9. The Judgment of the Court was delivered by SARKAR, J.-on September 25, 1947, the appellant was appointed by respondent No. 2, the Tata Iron and Steel Co., Ltd. (hereafter called the Company) as the Chief Labour officer of its collieries of which it appears to have a few, and he worked under the Company till the latter terminated his services by a notice dated December 5,1955. On such discharge, the appellant , claiming to be a Welfare Officer of a mine within r.74(2) of the Mines Rules 1955, which rule we shall later ser out, filed an appeal before respondent No.1, the Chief Inspector of Mines in India, under that rule questioning the validity of his discharged by the Company. The Chief Inspector held that the appellant was not a Welfare Officer within that rule and refused to entertain his appeal.

The appellant then moved the High Court at Patna under Art. 226 of the Constitution for an appropriate writ directing the chief inspector to decide the appeal. The High Court dismissed the appellant's petition agreeing substantially with the view taken by the Chief Inspector. The appellant has now appealed to this Court against the judgment of the High Court.

The Mines Rules; 1955 were framed under the Mines Act 1952, and came into force on July 2, 1956. We are principally concerned with the proviso for. 74(2) but this has to be read with r.72. The relevant portions of these rules are set out below.

Rule 72. (1) In every mine wherein 500 or more persons are ordinarily employed there shall be appointed at least one Welfare Officer:-

Provided that if the number of persons ordinarily employed exceeds 2000, there shall be appointed additional Welfare Officer on a scale of one for every 2000 persons or fraction thereof-

(2) No person shall as a Welfare Officer of a mine unless he possesses-

(Here certain qualifications are specified) Provided that in case of a person already in service as a Welfare Officer in a mine the above qualifications may, with the approval of the Chief Inspector be relaxed. (3)..... (4) A written notice of ever y such appointment..... and of the date thereof shall be sent by the owner, agent or manager t o the Chief Inspector within 7 days from the date of such appointment..... Rule 73. Duties of Welfare officers: ....

(Here certain duties are prescribed) Rule 74.

(1)..... (2) The condition of service of a Welfare Officer shall be the same as of other members of the staff of corresponding status in the mine;

Provided that in the case of discharge or dismissal, the Welfare Officer, shall have a right of appeal to the Chief Inspector whose decision thereon shall be final and binding upon the owner, agent or manager of the mine as the case may be.

The Chief Inspector mentioned in these Rules is the Chief Inspector of Mines in India.

If the appellant was not a Welfare officer within the proviso to r. 74(2) as the company contends, then, of course, no appeal by him lay under it. He would then clearly not be entitled to the writ he asked. The question therefore is whether the appellant was a Welfare Officer within the rule and is really one of construction of it.

We desire now to point out certain facts as to which there is no controversy. First, both the Act and the Rules came into force long after the appellant had been appointed by the Company. Secondly no relaxation of qualifications had been sought from or granted by the Chief Inspector with respect to The appellant under the proviso to sub-r. (2) of r. 72 after the Rules came in to force. Thirdly, no notice as contemplated in r. 72(4) had been given concerning the appellant. It appears that the Chief Inspector found that the appellant "was performing duties akin to those of Welfare officers contemplated by rule 73 and he was qualified to work as a Welfare officer." We propose to deal with this appeal on the basis of these findings.

Dealing with the contention noticed by the Chief Inspector and the High Court that a Welfare Officer under r. 74(2) is one who is appointed after the Rules came into force, Mr. Sen for the appellant said that a person like the appellant who had the requisite qualifications and was discharging the duties prescribed for a Welfare officer from before the Rules came into force, would be a Welfare officer within them. He pointed out that the proviso to sub-r. (2) of r. 72 clearly contemplated the continuance of the service of such a person as a Welfare officer with relaxation where such was necessary and was granted. He also said that sub-r. (4) of r. 72 was inapplicable to Such a person because he had been appointed long ago and because the proviso to r. 72(2) indicated that its application was not intended. We do not think it necessary to pronounce on this question in the present case. In our view, the appeal must fail even if Mr. Sen's contention is right and that for another reason .

We observe that the Rules do not define the term "Welfare officer". But we think it is beyond doubt-and indeed the contrary has not been contended that the Welfare officer mentioned in the proviso to r. 74(2) is the same officer as is mentioned in sub-r (1) of r. 72. Now it is, in our view, perfectly plain that the Welfare officer contemplated by r. 72(1) is such an officer of one mine. The rule says that there shall be at least one Welfare officer for every mine employing between 500 and 2000 persons and this makes any other view impossible As we understood Mr. Sen, he also accepted that the Welfare officer contemplated is one appointed in respect of one mine. Now, the appellant was on his own case, the Welfare Officer of several mines of the Company and not of one of such mines only. Therefore, we think that he was not a Welfare officer within r. 72(1) and hence not within the proviso to r. 74(2).

But Mr. Sen contends that the appellant might be considered as having been severally and independently appointed the Welfare officer of each of the Company's several collieries in his charge. We think that would be an impossible view to take. One appointment cannot be treated as several appointments and it is not in dispute that the appellant had only one appointment for all the Company's collieries.

We think that this appeal fails and we dismiss it with costs.

Appeal dismissed.