Supreme Court of India
The Godavari Sugar Mills Ltd vs Shri D. K. Worlikar on 14 March, 1960
Equivalent citations: 1960 AIR 842, 1960 SCR (3) 305
Author: P Gajendragadkar
Bench: Gajendragadkar, P.B.

PETITIONER:
THE GODAVARI SUGAR MILLS LTD.

Vs.

RESPONDENT:
SHRI D. K. WORLIKAR

DATE OF JUDGMENT:
14/03/1960

BENCH:
GAJENDRAGADKAR, P.B.
BENCH:
GAJENDRAGADKAR, P.B.
WANCHOO, K.N.

CITATION:
1960 AIR 842 1960 SCR (3) 305
CITATOR INFO :
E 1966 SC 925 (9)
RF 1972 SC1589 (14)

ACT:
Industrial Dispute-Notification-Construction-Head office of Sugar Industry, if within its purview-Bombay Industrial Relations Act, 1946 (Bom. 11 of 1947), S. 2(4)-Notification No. 1131-46 of 1952.

HEADNOTE:
The respondent, a stenographer employed by the appellant at its head office in Bombay, challenged the legality and propriety of the dismissal order passed against him by an application under the provisions of the Bombay Industrial Relations Act, 1946, and contended that the Notification No. 1131-46 issued by the Government of Bombay in 1952 under S. 2(4) of the said Act brought within its purview the head office of the appellant which was dealing in Sugar Industry. The appellant challenged the competency of the application on the ground that the Act did not apply to the respondent's case and the Labour Court had no jurisdiction as the Notification did not apply to the head office of the appellant:
Held, that on a proper construction of the Notification, it

cannot be said that the Government of Bombay intended to extend the scope of the Notification to the head office of a Sugar Industry. The Notification did not bring within its purview the sugar industry as such but the manufacture of sugar and its by-products, the object being to confine its benefits to service or employment which was connected with the manufacture of sugar and its by-products including the growing of sugar canes and all agricultural and industrial operations connected with the growing of sugarcane.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 425 of 1958. Appeal by special leave from the Decision dated October 9, 1956 of the Labour Appellate Tribunal of India, Bombay, in Appeal (Bom.) No. 111 of 1956.

M. C. Setalvad, Attorney-General of India, S. N. Andley, J. B. Dadachanji, Rameshwar Nath and P. L. Vohra, for the appellants.

M. S. K. Sastri, for the respondent.

1960. March 15. The Judgment of the Court was delivered by GAJENDRAGADKAR, J.--This appeal by special leave raises a short question about the construction of the notification No. 1131-46 issued by the Government of Bombay on October, 4, 1952, under s. 2(4) of the Bombay Industrial Relations Act, 1946 (Bom. 11 of 1947) (hereinafter called the Act). The respondent, who was a stenographer employed by the appellant, the Godavari Sugar Mills Ltd., at its head office in Bombay was dismissed by the appellant on April 22, 1955. He had been working as a stenographer for some years past on a salary of Rs. 135 plus Rs. 27 as dearness allowance. He was charged with having committed acts of disobedience and insubordination, and after a proper enquiry where he was given an opportunity to defend himself, he was found guilty of the alleged misconduct; that is why his services were terminated ; that is the appellant's case. The respondent challenged the legality and propriety of his dismissal by an application before the Labour Court at Bombay; he purported to make this application under s. 42(4) read with s. 78 (1) (a) (i) and (iii) of the Act. The appellant in reply challenged the competence of the application on the ground that the Act did not apply to the respondent's case, and so the Labour Court had no jurisdiction to entertain it. Both the parties agreed that the question of jurisdiction thus raised by the appellant should be tried as a preliminary issue; and so the Labour Court considered the said objection and upheld it. It held that the notification in question on which the respondent relied did not apply to the head office of the appellant at Bombay; accordingly the Labour Court dismissed the respondent's application. The respondent challenged the correctness of this decision by preferring an appeal before the Industrial Court. His appeal, however, failed since the Industrial Court agreed with the Labour. Court in holding that the notification did not apply to the head office of the appellant. The matter was then taken by the respondent before the Labour Appellate Tribunal and this time the respondent succeeded, the Labour Appellate Tribunal having held that the notification applied to the head office

and that the respondent was entitled to claim the benefit of the provisions of the Act. On this finding the Labour Appellate Tribunal set aside the order passed by the courts below and remanded the case to the Labour Court for disposal on the merits in accordance with law. It is this order which has given rise to the present appeal and the only question which it raises for our decision is whether the notification in question applies to the head office of the appellant at Bombay.

The Act has been passed by the Bombay Legislature in order to regulate relations of employers and employees, to make provision for settlement of indus- trial disputes and to provide for certain other purposes. It has made elaborate provisions in order to carry out its object, and has conferred some benefits on the employees in addition to those which have been conferred on them by the Central Industrial Disputes Act, XIV of 1947. Under s. 42(4) of the Act, for instance, an employee desiring a change in respect of any order passed by the employer under standing orders can make an application to the Labour Court in that behalf subject to the proviso which it is unnecessary to set out. Section 78(1)(a)(iii) requires the Labour Court to decide whether any change made by an employer or desired by an employee should be made. An order of dismissal passed by an employer can, therefore, be challenged by the employee directly by an application before the Labour Court under the Act, whereas under the Central Act a complaint against wrongful dismissal can become an industrial dispute only if it is sponsored by the relevant union or taken up by a group of employees and is referred to the industrial tribunal for adjudication under s. 10 of the Act Since the respondent claims a special benefit under the Act he contends that his case falls under the notification. It is common ground that if the notification applies to the case of the respondent the application made by him to the Labour Court would be competent and would have to be considered on the merits; on the other hand, if the said notification does not apply then the application is incompetent and must be dismissed in limine on that ground.

Let us now read the notification. It has been issued by the Government of Bombay in exercise of the powers conferred on it by s. 2, sub-s. (4), of the Act, and in supersession of an earlier notification, and it provides that " the Government of Bombay is pleased to direct that all the provisions of the said Act shall apply to the following industry, viz., the manufacture of sugar and its by-products Including (1) the growing of sugarcane on farms belonging to or attached to concerns engaged in the said manufacture, and (2) all agricultural and industrial operations connected with the growing of sugarcane or the said manufacture, engaged in such concerns. Note: For the purposes of this notification all service or employment connected with the conduct of the above industry shall be deemed to be part of the industry when engaged in or by an employer engaged in that industry ". It is significant that the notification applies not to sugar industry as such but to the manufacture of sugar and its by- products. If the expression " sugar industry " had been used it would have been possible to construe that expression in a broader sense having regard to the wide definition of the word " industry " prescribed in s. 2(19) of the Act; but the notification has deliberately adopted a different phraseology and has brought within its purview not the sugar industry as such but the manufacture of sugar and its by- products. Unfortunately the Labour Appellate Tribunal has read the notification as though it referred to the sugar industry as such. That is a serious infirmity in the decision of the Labour Appellate Tribunal. Besides, the inclusion of the two items specified in cls. (1) and (2) is also significant. Section 2(19)(b)(i) shows that " industry " includes agriculture and agricultural operations. Now, if the manufacture of sugar and its by- products had the same

meaning as the expression sugar industry, then the two items added by cls. (1) and (2) would have been included in the said expression by virtue of the definition of " industry " itself and the addition of the two clauses would have been superfluous. The fact that the two items have been included specifically clearly indicates that the first part of the notification would not have applied to them, and it is with a view to extend the scope of the said clause that the inclusive words introducing the two items have been used. This fact also shows the limited interpretation which must be put on the words " the manufacture of sugar and its by-products It is true that the note added to the notification purports to include within the scope of the notification some cases of service and employment by the, deeming process. Unfortunately the last clause in the note is unhappily worded and it is difficult to understand what exactly it was intended to mean. Even so, though by the first part of the note some' kinds of service or employment are deemed to be part of the industry in question by virtue of the fact that they are connected with the conduct of the said industry, the latter part of the note requires that the said service or employment must be engaged in that industry. It is possible that the workers engaged in manuring or a clerk in the manure depot which is required to issue manure to the agricultural farm which grows sugarcane may for instance be included within the scope of the notification by virtue of the note; but it is difficult to see how the respondent, who is an employee in the head office at Bombay, can claim the benefit of this note. The addition made by the deeming clause on the strength of the connection of certain services and employments with the conduct of the industry is also controlled by the requirement that the said services or employments must be engaged in that industry so that connection with the industry has nevertheless to be established before the note can be applied to the respondent.

It has been urged before us by Mr. Sastri, for the respondent, that at the head office there is accounts department, the establishment section, stores purchase section and legal department, and he pointed out that the machinery which is purchased for the industry is landed at Bombay, received by the head office and is then sent to the factories. In fact the factories and the offices attached to them are situated at Lakshmiwadi and Sakharwadi respectively and are separated by hundreds of miles from the head office at Bombay. The fact that the machinery required at the factories is received at the head office and has to be forwarded to the respective factories cannot, in, our opinion, assist the respondent in contending that the head office itself and all the employees engaged in it fall within the note to the notification. The object of the notification appears to be to confine its benefit to service or employment which is connected with the manufacture of sugar and its by-products including the two items specified in cl. (1) and cl. (2) Subsidiary services such as those we have indicated are also included by virtue of the note; but in our opinion it is difficult to extend the scope of the notification to the head office of the appellant. We must accordingly hold that the Labour-Appellate Tribunal erred in law in holding that the case of the respondent was governed by the notification.

Incidentally we would like to add that the registrar appointed under s. 11 of the Act has consistently refused to recognise the staff of the head office as coming under the notification, and it is common ground that the consistent practice in the matter so far is against the plea raised by the respondent. It is perfectly true that in construing the notification the prevailing practice can have no relevance; but if after construing the notification we come to the con- clusion that the head office is outside the purview of the notification it would not be irrelevant to refer to the prevailing practice which

happens to be consistent with the construction we have placed on the notification. It appears that in the courts below reference was made to a similar notification issued in respect of textile industry under s. 2, sub-s. (3) of the Act and the relevant decisions construing the said notification were cited. We do not think any useful purpose will be served by considering the said notification and the decisions thereunder. In the result the appeal is allowed, the order passed by the Labour Appellate Tribunal is set aside and the respondent's application is dismissed. There will be no order as to costs.

Appeal allowed.