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Suspal Singh Vs Presiding Officer, Labour Court and Another

Civil Writ Petition No. 1730 of 1989

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: March 25, 1996

Acts Referred:
Industrial Disputes Act, 1947 â€" Section 2(S)

Citation: (1996) 113 PLR 420

Hon'ble Judges: T.H.B. Chalapathi, J

Bench: Single Bench

Advocate: M.S. Bedi, for the Appellant; Satinder Khanna, for the Respondent

Final Decision: Allowed

Judgement

T.H.B. Chalapathi, J.
The short point involved in this writ petition is whether Salesman working in the Co-operative Agricultural Service

Society Limited (hereinafter referred to as the "Society") is a "workman" within the definition of Section 2(s) of the Industrial Disputes Act.

2. In the impugned order, the Tribunal has taken the view that the Salesman does not fall within the definition of "workman". Therefore, the

Tribunal refused to adjudicate the dispute between the workman and the management. For quashing the said award, the petitioner has approached

this Court invoking the ceritiorari jurisdiction of this Court under Article 226 of the Constitution of India.

3. There is no dispute that the determining factor to decide whether or not an employee is a workman is the principal nature of his duties and

functions and not some work incidentally done. If the main work is of manual, clerical or of technical nature, the employee will come within the

purview ""workman"" as defined in Section 2(s) of the Industrial Disputes Act. The Society has framed its own bye-laws and Bye-law 51 reads as

follows :-

The society shall appoint such number of salesmen as may be necessary. Sales man or sales men so appointed shall be responsible for the safe

custody and storage of stocks and goods belonging to the society. He/they shall keep regular accounts of stock purchased and sold maintain stock

registers. He/they shall also perform such duties as may be assigned to him/them by the Managing Committee. He/they shall work under the control

of Manager/Secretary.

Thus, it is clear that the Salesman employed in the Society has to do not only manual work but also clerical work. Therefore he is a workman

within the definition of Section 2(s) of the Industrial Disputes Act. The petitioner did not come within the category of persons excluded in the

definition of Section 2(s) of the Industrial Disputes Act. The decision which has been relied upon by the Labour Court in Miss A. Sundarambal Vs.

Government of Goa, Daman and Diu and Others, , has no application to the facts of the case because in that case, it has been held that a teacher is

not a workman as the teacher is not doing any manual, technical, supervisory, clerical, skilled or unskilled work. I am, therefore, of the opinion that

the order of the Tribunal is liable to be set aside. The Salesman working in the Management is a ''workman'' within the definition of Section 2(s) of

the Industrial Disputes Act.

4. The writ petition is allowed and the matter is remitted to the Labour Court to decide and adjudicate the dispute between the workman and the

society in accordance with law. Parties are directed to appear before the Labour Court on April 22, 1996, and the Society is given the liberty to

file its written statement on that date.