
(1990) 04 KAR CK 0006

Karnataka High Court

Case No: Writ Petition No"s. 14446 of 1985 and 15540 of 1986

UB Mec Batteries Ltd.

APPELLANT

Vs

State Apprenticeship
Advisor

RESPONDENT

Date of Decision: April 20, 1990

Acts Referred:

- Apprentices Act, 1961 - Section 9 (8) (a) (i)

Citation: (1991) ILR (Kar) 188

Hon'ble Judges: R. Ramakrishna, J

Bench: Single Bench

Advocate: S.N. Murthy, for the Appellant; B. Srinivasa Gowda, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

R. Ramakrishna, J.

The above petitioners being aggrieved by the direction given by the respondent on the interpretation of Section 9(8)(a)(i) of the Apprentices Act 1961, (hereinafter referred to as "the Act"), have filed the above Writ Petitions for issue of certiorari to quash the orders of the respondent.

2. Since there is a common question of law involved, these Writ Petitions are clubbed to give a common order in W.P.14446 of 1985.

3. The petitioner in W.P.14446 of 1985 is a Company registered under the provisions of the Companies Act, 1956, engaged in the manufacture of batteries. The total number of employees Including the Executives employed by the petitioner-Company is 435.

4. The petitioner in W.P.15540 of 1986 is also a Company registered under the Companies Act and is engaged in the manufacture of beer. The petitioner employs

around 250 workmen.

5. The petitioners are required to provide opportunities of training under the Act. They are imparting training to the apprentices deputed by the respondent.

6. u/s 9(8)(a), any Recurring costs incurred by an employer in connection with apprentice training, if the employer employs five hundred workers or more, he should bear the entire costs and if it is less than 500 workers, the Government will share the expenses.

7. During 1984, the respondent wrote letters to the petitioners stating that the employees strength in M/s. U.B. Mec Batteries Limited and the strength of employees in M/s. United Breweries Ltd. put together is more than 500 employees and therefore reimbursement of 50% will not be paid. This reasoning of the respondent is challenged in these Writ Petitions.

8. Learned Counsel for the petitioners in both the Writ Petitions, Sri S.N. Murthy has submitted that the petitioners are entitled to claim reimbursement of half of the recurring costs including the cost of expenses as the employees of each company are less than 500 as indicated in the petitions. The learned Counsel further submitted that both the Companies are two distinct legal entities in law, separately registered under the provisions of the Companies Act, 1956, having separate share holding and are governed by individual Board of Directors. The nature of activities carried on by them is altogether different, as one Company manufactures batteries and the other Company manufactures beer. There is no Inter-connection of any nature between the two Companies. The working staff, administration staff, accounts staff, finance staff and all working system and controlling system of the two Companies are entirely different; the respondent has totally erred in coming to the conclusion that the two Companies are run by the same management and that it has a total strength of 732 workers and consequently bringing them u/s 9(8)(a)(i) of the Act.

9. Against this submission, learned Government Advocate has submitted that for the purpose of the Act two Establishments coming under the management of a single Company should be treated as one unit and hence the reasoning of the respondent does not suffer from any legal infirmity. Learned Government Advocate further submitted that the respondent treated both the Companies as one unit on the basis of common letter-head used by them while addressing the Government and hence the same does not call for any interference in these Writ Petitions,

10. On the basis of the above submissions, we have two modes of interpretation to the relevant Section, one based upon the Judgment rendered in W.P. No. 709/74 of the Hon"ble High Court of Madras wherein His Lordship was asked to Interpret Section 9(4) of the Act for implementing the Apprentices Act. The other mode is the plain reading of the provision as it stood in the Statute and interpreted thereafter.

11. u/s 9(1) of the Act, every employer shall make suitable arrangements in his workshop for imparting a course of practical training to every apprentice engaged by him in accordance with the programme approved by the Apprenticeship Advisor. Sub-section (2) of Section 9 of the Act deals with the facilities extended to Central Apprenticeship Advisor to test the work of apprentices working under the approved programme. Under Sub-section (4) of Section 9 the basic training shall be imparted to the trade apprentices either in separate parts of the workshop building or in his separate building where the employer employs in his establishment five hundred or more workers. u/s 8 of the Act, the authority will determine for each designated trade the ratio of trade apprentices to workers other than unskilled workers in that trade.

12. In the Madras case cited above, the Director of Employment and Training has designated Shaw Wallace and Company Ltd., Super Phosphate Factory, Avadi; Glue Factory and Sulphuric Acid Plant and Shaw Wallace Industries, Kaduvetty as one unit for purpose of Imparting training to the apprentices. In that context Section 9(4) of the Act came up before the Court for interpretation as to whether all the three units will be brought under one employer for the purpose of implementing Section 9(4) of the Act. By looking at the avowed object of the Act, all the three units were treated as one unit for the purpose of imparting apprentices training under the Act.

13. This decision is distinguishable as the question before the Court was to interpret Section 9(4) pure and simple. If we read Section 9, there is a mandate to every employer to Impart a course of practical training to several apprentices engaged by him in accordance with the programme approved by the Apprenticeship Advisor, if we read Section 9(4) in isolation, it is intended to give a direction to an establishment where five hundred or more workers are employed as to what are the benefits that will be extended by the Government for imparting a course of practical training.

14. The language employed u/s 9(8) of the Act is clear and there is no ambiguity to make a true interpretation of that Section. For the purpose of better understanding, the provision is reproduced below:

"9. PRACTICAL AND BASIC TRAINING OF APPRENTICES:

XXX

XXX

XXX

(8)(a): Recurring costs (including the cost of stipends) incurred by an employer in connection with Practical training basic training, imparted to trade apprentices other than these referred to in Clause (a) and (aa) of Section 6 shall be borne -

(i) if such employer employs five hundred workers or more, by the employer;

(ii) if such employer employs less than five hundred workers, by the employer and the Government in equal shares up to such limit as may be laid down by the Central Government and beyond that limit, by the employer alone, and

(b) and (c) xxx xxx xxx"

A plain reading of this provision points out that where there are five hundred or more workmen employed the cost of practical training should be borne by the employer and where it is less than five hundred workmen, Government shares the expenses in equal proportion. It does not prohibit that an employer who employ less than five hundred workmen should not impart the practical training to the apprentices.

15. The 1st respondent on whom the burden is cast to prove that the above petitioners are to be treated as one unit, has not placed any material except showing that he has relied on a common letter-head used by the employer of the respective petitioners. It is not the case of the petitioners that they are not agreeing to impart apprenticeship training to the candidates advised by the respondent. But they only seek the benefits provided u/s 9(8)(a) of the Act,

16. In Madras case, the petitioners took up a plea that in view of Section 9(4) of the Act that they are not obliged to impart apprentice training as each establishment is employed less than five hundred workmen. In view of the stand taken by them, the Court has to interpret the term "establishment" for the purpose of interpretation of Section 9(4) and thereby bringing all the three units as one unit for the purpose of the Act. This interpretation, with due respect, cannot be extended when we are asked to interpret Section 9(8)(a) of the Act.

17. As noticed earlier, the two Companies, though coming under a single group, they are manufacturing different types of commodities and they have separate Register Numbers with separate share-holders and they are also governed by independent Board of Directors. Location of the petitioner's working establishment are also in two different places. Though for the purpose of the Act, to impart apprentice training, few Companies may be united together, but for the purpose of reimbursement, it is exclusively governed u/s 9(8)(a) of the Act. Since the petitioners' Companies are two different entities, the first respondent is not justified in calculating the strength of the workmen of two different units for the purpose of contribution. The first respondent is entitled to reimburse 50% of the total costs u/s 9(8)(a) of the Act.

In view of the discussion made above, I make the following:

ORDER

W.P. No.14460/1385:

Writ Petition is hereby allowed,

Writ in the nature of Certiorari is issued and the orders of the 1st respondent dated 20th November 1984 and 6th July 1985, Annexures "8" and "G" are hereby quashed. It is further ordered that the petitioner-Company is entitled for the reimbursement of half of the

expenses to be paid u/s 9(8)(a) of the Act.

W.P. No. 15540/1986:

Writ Petition is hereby allowed.

A Writ in the nature of Certiorari is issued and the order of the respondent dated 8-7-1985 Annexure-"C" is hereby quashed.

It is further ordered that the petitioner-Company is entitled for the reimbursement of half of the expenses to be paid u/s 9(8)(a) of the Act.