The State Vs Hathiwala Textile Mills and Others

Court: Bombay High Court

Date of Decision: Nov. 30, 1956

Acts Referred: Bombay Shops and Establishments Act, 1948 â€" Section 16, 5
Employees Provident Funds and Miscellaneous Provisions Act, 1952 â€" Section 1(2), 1(3), 12, 14, 17

Citation: AIR 1957 Bom 209 : (1957) 59 BOMLR 184 : (1957) CriLJ 957 : (1957) ILR (Bom) 358 : (1957) 2 LLJ 202

Hon'ble Judges: Gokhale, J; Dixit, J

Bench: Division Bench

Advocate: V.H. Gumaste, Addl. Asst. Govt. Pleader, for the Appellant; Rajni Patel and V.B. Patel, for the Respondent

Judgement

Gokhale, J.
In this appeal against acquittal by the State of Bombay a short but important point of law arises for our decision. There fire

three respondents in this appeal and respondent No. J is the Hathiwala Textile Mills at Begumpura, while respondent No. 2 and respondent No. 3

are its occupier and Manager respectively. On 4-3-1952 the Employees'' Provident Funds Act (No. 19 of 1952) was made applicable with the

result that the workers of the factory began to enjoy the benefits of provident fund under the provisions of the Act. It is not disputed that the

respondents complied with the provisions of the Act sometime till April 1954. On the 6-4-1954 it seems that the weaving department of the

respondent Mills was closed. It appears that even though the weaving department was closed, the Engineering department continued. But the

number of workers in the factory fell below the figure of 50. The employers, therefore, thought that the workers in their factory would no longer be

entitled to the benefits under the Employees'' Provident Funds Scheme and, therefore, they addressed a letter to the Regional Provident Fund

Commissioner on the 10-6-1954, pointing out that they had two departments in the Mills, one of which was the Weaving department and the other

was the Engineering department and these two departments between them had 184 members of the Employees'' Provident Funds Scheme, but due

to Government taxes, excise duty and other adverse circumstances, the Weaving department was closed from 6-4-1954 and the Engineering

department had been continued. The letter also-pointed out that on the date on which it was written there were only 40 members in that scheme

and as out of them the clerical staff consisted of eleven persons, there were only 29 members in the Engineering department who enjoyed the rights

of the Provident Funds Scheme, In view of this circumstance, the employers "requested Government to exempt them from the operation of the

Employees" Provident Funds Scheme from the month of June 1954 or at least the clerical staff to whom reference was made in the letter. The

letter added that if the Mills were exempted from the Employees" Provident Funds Scheme, the requisite rights of the workers would be given to

them without any grudge. To this, a reply was sent by the Regional Provident Fund Commissioner, Bombay, on the 24-6-1954 in which it was

stated that under the directions from the Government of India once a factory was covered under the Act and the Scheme, it remained covered so

far as the General Provident Fund was concerned, no matter whether the number of employees ran below 50. The re-quest of the Mills to get

exemption was not therefore acceded to. After this letter and the reply of Government, it appears that the respondents failed to remit the

employer"s and employees" share of contribution from 1st August 1954 onwards and they also failed to remit the administrative charges under the

Act from 1st July 1954. They also failed to submit the returns prescribed under the Employees" Provident Funds Scheme from the 1st August

1954. It may be stated that on the 15th November 1954 there was an insolvency petition filed against the respondents under which the property of

the respondent Mills came to be in the custody of Receivers. As the employers had failed to comply with the provisions of the Employees"

Provident Funds Scheme, 1952, a complaint was filed against them and they were charged with offences under paragraphs 76 (a) and (c) of the

Employees" Provident Funds Scheme, 1952, read with Section 14 of the Employees" Provident Funds Act, 1,952.

2. Now the facts, which are stated above, were not disputed by the respondents. They denied having committed any offence because they stated

that the Weaving Department of Hathiwala Textile Mills had stopped working since April 1954 and that they were not liable to pay the Provident

Fund contribution and the administrative charges under the Act. as the number of workers on the roll was not 50 or more. They also contended

that as there was an insolvency petition which resulted in the property of the Mills being taken over by the Receivers, they were not in a position to

pay any amount and were, therefore, not liable.

3. The case was tried in a summary way and the learned Special Judicial Magistrate, First Class. Surat. came to the conclusion that the

Employees" Provident Funds Act, 1952, and the scheme thereunder were not applicable to the factory of Hathiwala Textile Mills on the dates of

the alleged offences because the number of workers in the Mills was less than 50 and, consequently, on the second point as to the liability of the

respondents also he held that they were not guilty. That is how this appeal against acquittal has been filed on behalf of the State.

4. Now, the short point which calls for consideration in this appeal is as to the construction of Section 1(3) of the Employees'' Provident Funds

Act, 1952 and that reads as follows :

Subject to the provisions contained in Section 16, it applies in the first instance to all factories engaged in any industry specified in Schedule I in

which fifty or more persons are employed, but the Central Government may, after giving not less than two months'' notice of its intention so to do,

by notification in the Official Gazette, apply the provisions of this Act. to all factories employing such number of persons less than fifty as may be

specified in the notification and engaged in any such industry"",

Section 16 excludes the application of the Act in the case of factories belonging to Government or local authority and also to infant factories, that is

to say any factory established whether before or after the commencement of the Act, unless three wears have elapsed from its establishment and

the Explanation to the section shows that to remove any doubt it is declared that the date of the establishment of a factory shall not be deemed to

have been changed merely by reason of a change of the premises of the factory. Now, Section 1(3) shows that unless the factory in question is

except-ed under the provisions of Section 16, the Act will apply, provided the factory is engaged in any industry specified in Schedule. I in which

fifty or more persons are employed. There is no dispute that the first respondent-factory conies within the factories specified in Schedule I and the

Act was applied to it in 3952. But it was contended in the lower Court that admittedly on the dates of the alleged offences viz. in July and August

1954 the workers in the factory numbered less than fifty. It was, therefore, argued that the provisions of the Act had ceased to apply and,

consequently, no liability was incurred by the respondents by reason of their failure either to remit their share of contribution to the Provident Fund

or to pay the administrative charges or to submit the returns prescribed under the Scheme. That argument, as I have said, was accepted by the

learned trial Magistrate. But Mr. Gumaste contends that the interpretation put upon Section 1(3) by the learned trial Magistrate is clearly erroneous

and, in our opinion, that contention is well founded. If we look at Section 1(2), it shows that the Act extends to the whole of India except the State

of Jammu and Kashmir. Then Section 1(3) states that the Act ""applies in the first instance to all factories engaged in any industry specified in

Schedule I in which fifty or more persons are employed."" The dispute is as to the interpretation of the words ""are employed"". It is the contention of

the defence that these words must be interpreted so as to mean that on the date on which the offence is alleged to have taken place, it must be

shown that the factory employed fifty or more persons and if that was not shown, then the Act would not be applicable. On the other hand, it is

contended on behalf of the State that the words ""are employed"" must, be read in relation to the words ""in the first instance"" and what was intended

by the Legislature was that the Act should initially apply to all factories engaged in any industry covered by Schedule. T in which fifty or more

persons were employed. The latter part of that Sub-section provides that the Central Government could, after giving not less than two months''

notice of its intention so to do by notification in the Official Gazette, apply the provisions of the Act, to all factories employing such number of

persons less than fifty as may be specified in the notification and engaged in any such industry. It seems, therefore, that the reasonable construction

of the sub-section would be that the Legislature contemplated that the Act was to apply after it came into force to all factories in which fifty or

more persona were employed. In the case of other factories employing less than fifty, the Central Government was given the option of applying the

provisions of the Act by issuing a notification provided not less than two months'' notice of their intention so to do was given. This sub-section,

however, does not provide for the discontinuance of the application of the Act in case there is a fall in the number of workers below fifty after the

Act had once applied. This construction of the sub-section would seem to be supported by some other provisions of the Act to which Mr.

Gumaste drew our attention. Section 12 of the Act provides :

No employer in relation to a factory to which any Scheme applies shall, by reason only of his liability for the payment of any contribution to the

Fund or any charges under this Act or the Scheme, reduce, whether directly or indirectly, the wages of any employee to whom the scheme applies

or the total Quantum of benefits in the nature of old as pension, gratuity or provident fund to which the employee is entitled under the terms of his

employment, express or implied."" This would clearly show that even though the workers got the benefits under the provisions of this Act. the

employers could not take away the advantage thus secured to the workers by simultaneously'' reducing their wages of the total quantum of benefits

in the nature of old age pension, gratuity or provident fund to which the workers were already entitled. The Act is intended to provide benefits of

Provident Fund for employees in factories, and other establishments and naturally the-Legislature took the precaution of seeing that these benefits

were not counter-balanced by any action on the parts of employers in reducing the wages or other benefits which the employees were already

enjoying before the application of the Act. Section 17 of the Act empowers the appropriate Government to exempt any factory from the operation

of all or any of the provisions of any Scheme, subject to certain conditions. Explanation (ii) to Section 17(1) provides :

The amount of accumulations to the credit of an employee in the provident fund shall, where he leaves his employment and obtains re-employment

in another factory to which this Act applies, be transferred, within such time as may be specified in this behalf by the Central Government, to the

credit of his account in the Provident fund of the factory in which he is re-employed or, as the case may be, in the Fund established under the

Scheme applicable to the factory."" So that under this provision where a worker leaves his employment and obtains re-employment in another

factory to which the Act applies, whatever provident fund has been accumulated to his credit will lie transferred to the credit of his account in the

provident fund of ""the other factory, so that the worker will not be put to any loss by reason of the fact that he has left employment in the old

factory and has obtained re-employment in another factory. u/s 5 of the Act the Central Government was empowered to frame a Scheme to be

called ""the Employees'' Provident Fund Scheme"" and on 2nd September 1952 the Government of India framed such a Scheme. Rule 26 of that

Scheme refers to the class of employees who are required to join the Fund and it says :

Every employee, employed in a factory to which this Scheme applies, other than an excluded employee shall be required to become a member of

the Fund from the date on which the Scheme comes into force if ho has on that date completed one year''s continuous service in the factory

concerned. Every employee, other than an excluded employee, taking up employment, whether before or after the commencement of the Scheme,

in a factory to which the Scheme applies, shall also become a member from the beginning of the month following that in which he completes one

year''s continuous service in the factory"". This shows that all employees other than excluded employees would get benefits of the Provident Funds

Scheme, provided they have compled one year''s continuous service in the factory concerned, so that any employee who has not completed one

year''s continuous service would not be entitled to the benefits of this Scheme. Mr. Gumaste'' relied on this provision to show that the Legislature

intended that an employee who had completed one year''s continuous service should begin to get the benefits of the Provident Funds Scheme an

should continue to get those benefits, provided that factory was working. Then Mr. Gumaste referred us to Rule 69 (2) and (4) of the Scheme.

Rule 69 (2) provides that the Board of Trustees or the Commissioner- may permit a member, who has not attained the age of superannuation, to

withdraw the amount standing to his credit in the Fund under certain circumstances. Rule 69 (4) Provides :

A member who withdraws the amount under sub-paragraph (2) shall be required to join as a new member of the Fund if he obtains employment

again in a factory to which this Scheme is applicable and qualifies again for the membership of the Fund.

The provisions of this rule again show that in case in member withdraws this amount from the Fund and gets employment in another factory to

which the Scheme applies, he shall have once more to Qualify himself for the membership of the Fund. As already stated, u/s 17. Explanation (it)

where a worker leaves his employment and obtains re-employment in some other factory to which the Act applies, he can get a transfer of the

amount Of the Provident Fund to the factory in which he is re-employed but if he withdraws the amount of the Fund, then he is placed under an

obligation of again qualifying himself for the membership of the Fund. It is true that the provisions of SSection 12 and 17 and the provisions of Rs.

26 and 69 to which Mr. Gurnaste referred cannot in terms help us to interpret Section 1(3), but they would show that what the Legislature

intended was that a worker who began to get the benefits of the Provident Fund under the provisions of the Act should continue to get them even if

he left the factory and obtained re-employment in another factory, provided he got the amount of the Provident Fund standing to: his credit in the

old factory transferred to the credit of his account in the provident fund of the other factory.

5. Mr. Rajni Patel contended that we should give a strict construction to the words ""are employed"" in Section 1(3) because it 3s penal statute and

if two constructions are possible, the one favourable to the respondents should be accepted, and his"" argument was that if the Legislature had

intended that factories, which after the Act came into operation were governed by this Act even after they Had ceased to employ fifty or more

workers, then the Legislature would have said so in express terms. We arc not prepared to accept this argument. What the Legislature intended in

the first portion of Section 1(3) of the Act was that the Act was to apply to all factories which were covered by Schedule I and in which fifty or

more persons were employed. The mere fact that after the Act came to be applied to a factory the number of workers in that factory was reduced

to less than fifty would not make the Act inapplicable. It is no doubt true that in the latter part of Section 1(3) the Central Government is given the

power to issue a notification making the improvises of the Act applicable to all factories employing persons below the figure of fifty, and Mr. Rajni

Patet''s argument is that if the Central Government wanted to make this Act applicable, it could have immediately issued a notification u/s 1(3)

continuing the application of the Act to the respondent factory. We are not prepared to accept this contention either. What the latter part, of Sub-

Section (3) provides is that the Central Government is given the power to issue a general notification applying the Act to all factories employing less

than fifty workers, provided they give the requisite notice of two months of their intention so to do. That provision docs not, in our opinion,

contemplate the issue of a number of notifications which would be applicable to individual factories. As regards the argument of strict construction,

it must be remembered, in the first instance, that the Employees'' Provident Funds Act is a social legislation meant for the benefit of workers. Penal

statutes like other statutes must undoubtedly be construed according to their plain provisions. But it is now well recognised that it is the paramount

duty of the Courts to put upon the language of the'' Legislature honestly and faithfully its plain and rational meaning so as to promote the object of

the Legislature. In this connection this is what Maxwell says in his Interpretation of Statutes at page 284 :

Tile tendency of modern decisions, upon the whole, is to narrow materially the difference between what is called a strict and a beneficial

construction. All statutes are now construed with a more attentive regard to the language, and criminal statutes with a more rational regard to the

aim and intention of the legislature, than formerly. It is un-question ably right that the distinction should not be altogether .erased from the judicial

mind, for it is required by the spirit of our free institu tions that the interpretation of all statutes should be favourable to personal liberty, and this

tendency is still evinced in a certain reluctance to Supply the defects of language, or to eke out the meaning of an obscure passage by strained or

doubtful influences. The effect of the rule of strict construction might almost be summed up in the remark that, where an equivocal word or

ambiguous sentence leaves a reasonable doubt of its meaning which the canons of interpretation fail to solve, the benefit of the doubt should be

given to the subject and against the'' legislature which has failed to explain itself. But it yields to the paramount rule that every statute is to be

expounded according to its expressed or manifest intention and that all cases within the mis-chiefs aimed at are, if the language permits, to be held

to fall within its remedial influence.

Mr. Gumaste also relied in support of his contention on an unreported decision of this Court in J.G. Vakharia v. Regional Provident Fund Commr.,

Bombay. Special Civil Appln, No. 829 of 1956 (A) decided by the learned Chief Justice and my learned Brother. Ill that case the Court was

dealing with an attempt to circumvent the provisions of the Employees'' Provident Funds Act by splitting up a factory into five separate units, none

of which employed fifty or more persons, and that was sought to be justified on the score of the right of the subject to avoid paying tax if he was

legally entitled to do so. while dealing with this argument, the Court observed :

" ""it is a well settled canon of taxation laws that a subject is entitled to avoid paying tax if legally he can do so. Even that canon is looked at rather

askance in the contest of times that we are living in. but the Act that we are dealing with in not a taxation law. It is a social legislation and the canon

of construing a social legislation is very different from the canon of construing a taxation law. The Court must not countenance any subterfuge which

would defeat the provisions of a social legislation and the Court must even if necessary strain the language of the Act in order to achieve the

purpose which the legislature had in placing this legislation on the statute book. Therefore, not only the Court must disapprove all subterfuges to

defeat a social legislation but must actively try to prevent such subterfuges succeeding in their object.

(G) Now in the present case we are not satisfied that there is any ambiguity in the meaning of the words ""are employed"" in Section 1(3) of the Act

as contended by Rajni Fatel. The sub-section, read RS a whole, shows that the Legislature intended that the Act should initially apply to all

factories in which fifty or more persons arc employed. In the case of other factories employing less than fifty persons, the Central Government is

empowered to issue a notification alter giving not less than two months'' notice of their intention to apply the Act to the said factories. The sub-

section, therefore, deals with the initial application of the Act. It has nothing to do with the continuance of the application of the Act and Mr. Rajni

Patel has not been able to draw our attention to any provision of the Act which would justify his argument that as soon as the factory ceased to

employ fifty workers or more but employed less than fifty -workers, the Act would cease to apply and the workers would cease to get the benefits

accruing to them under the provisions of the Act. In fact, the several provisions of the Act to which the learned Additional Assistant Government

Pleader drew our attention show that the Act was intended for the benefit of the workers and assured them the continuance of those benefits

provided tho workers had the necessary qualification of- one year''s continuous service. On the other hand, if the interpretation sought to be placed

on Section 1(3) by Mr. Rajni Patel were to be accepted, the workers would be constantly exposed to the peril of losing the benefits under the Act

during such periods when the factory ceases to employ fifty or more workers. That would also undoubtedly leave wide scope for evasion and

result in defeating the rights of the workers which the Court must try to prevent. It is significant to note that the evidence in this case discloses that

the respondents have again begun to pay, since February 1955, provident fund contributions and administrative charges regularly

7. Then Mr. Rajni Patel drew our attention to a ruling in Cen. Prov. Fund Commr. v. Ganesh Dyeing and Printing Works (1958) I L L J 743 .

According to Mr. Patel this ruling lays down a limitation on the rule of benevolent interpretation. In that case this Court wag also dealing with the

provisions of the Employees'' Provident Funds Act and the learned Chief Justice remarked that:

to the extent that this is social legislation and caters for the social good, it must receive a benevolent interpretation at our hands. But in giving a

benevolent interpretation to the Act we must not also overlook the fact that it constitutes a levy or a charge upon the employer and to that extent

we must be careful in seeing that the liability of the employer is not increased beyond what Parliament clearly intended"".

Even applying this test, we are not satisfied that! in this case the interpretation which we propose to put on Section 1(3) would result in increasing

the liability of the respondents. The respondent-factory I is not called upon to pay the provident fund contributions of any of the workers who have

ceased to be its workers. No doubt the factory itself was, on the material dates, employing less than fifty'' workers. But as already stated, that

would not make the Act which had once applied, inapplicable, and the factory is being called upon under the provisions of the Act to pay the

provident fund contributions regarding workers who are actually on its roll. In fact its total liability has been reduced as a result of the fall in the

number of its workers owing to the closure of the weaving department. At any rate, it cannot be said that there is any enhanced liability on the

respondents because the Act continues to apply to their factory. The argument of Mr. Rajni Patel on this score also must, therefore, be rejected.

8. The learned Counsel then referred us to a ruling of the Supreme Court in Kalidas Dhanjibhai Vs. The State of Bombay, . There their Lordships,

while dealing with the provisions of the Bombay. Shops and Establishments Act, 1948, refused to accept the extended interpretation sought to be

placed on the term ""shop"" in that Act by the learned Attorney General on the ground that, when there are two possible'' interpretations, the Court

must choose the one which best accords with the policy of the Act. But in coming to the conclusion that the Bombay legislature did not intend to

rope in small establishments of the kind with which that case was concerned, under the Bombay Shops and Establishments Act. their Lordships

were partly influenced by the wording Of Section 5 of that Act under which the State Government could by a mere notification extend the Act to

any establishment or class of establishments to which the provisions of that Act did not for the time being apply. The wording of Section 5 of the

Bombay Shops and Establishments Act is, however, somewhat different from the wording of Section 1(3) of the Employees'' Provident Funds Act

and, as We have already seen, Section 1(3) would not warrant the issue of a notification to apply the Act to individual factories. We do not think,

therefore, that Mr. Bajni Patel can derive any assistance from this case either.

(9) In our opinion, therefore, the view of the learned trial Magistrate that the Act was inapplicable to the respondent-factory is not correct and the

order of acquittal must, therefore, be set aside.

Dixit, J.

10. While I concur in the judgment just delivered. I desire to add a few words. The sole question in this appeal is whether respondent No, 1

factory is governed by the provisions of the Employees'' Provident Funds Act, 1952. That question has to be answered by reference to Section

1(3). Two interpretations are suggested with regard to Section 1(3). The learned Additional Assistant Government Pleader contends that the Act

applies to this factory on the dates of offences which are July and August 1954, while Mr. Rajni Patel, appearing for the respondents, contends

that the Act docs not apply because the factory had employed on these dates persons who are less than fifty. It will be best to begin with

reproducing the section which, so far as material, provides:

Subject to the Provisions contained in Section 16, it applies in the first instance to all factories engaged in any industry specified in Schedule I ill

which fifty or more persons are employed, but the Central Government may, after giving not less than two months'' notice of its intention so to do,

by notification in the Official Gazette, apply the provisions of this Act. to all factories employing such number of persons less than fifty as may be

specified in the notification and engaged in any such industry"". It is evident that Section 1(3) is composed of two parts. The first part applies to a

case where the factory employed fifty or more persons at the material time which was the 4-3-3953 when the Act came into operation. Therefore,

if on the 4-3-1952 a factory had on its register, fifty or more persons, the factory was clearly governed by the Act. The second Part of the sub-

section applies to a case where the factory may have less than fifty employees in which case the Act is to be made applicable, as is indicated in the

section, by a notification to be issued by the Central Government in order to apply the Act to such a factory. It is indisputable that the Act is a

piece of social legislation. It is also clear that the object of the Act is to promote the well-being of the workers. , Now, an analysis of Section 1(3)

makes it clear that the provision applies to two different sets of factories and that is by reference to the number of persons employed in a factory.

The first part deals with a case where the number of employees is either fifty or more and the second part deals with a case where the number of

employees is less than fifty. The modes of the application of the Act are different. In the first place, the Act applies to a factory having, on the 4-3-

1952, fifty or more employees. It is not in dispute that on the 4-3-1952 -the factory in the present case had employees exceeding fifty, It is

obvious, therefore, that Section 1(3) will apply to this case. But the argument of the learned Counsel, appearing for the respondents, is that

although the Act was applicable on the 4,3-1952, the Act has ceased to apply to the factory on the dates of offences which are July and August

1954. The argument is that because on those dates the number of workers in the factory was less than fifty, the Act had ceased to apply. One

obvious answer to this contention is that there is no provision in the Act which says that the Act, even where it has once applied to a factory, would

cease to apply to it as soon as the employees are less than fifty. Once the Act applies, it must continue to apply and on that view the contention of

Mr. Ra.ini Patel is clearly wrong. But if one examines the argument, it will be clear that the argument is one which cannot be accepted. Take a

case: This factory, prior to July and August 1954, had workers exceeding fifty. It is clear that upon that basis, those employees would be entitled

to the benefits given by the Act. If in July and August 1954 the factory had upon its register, a number less than fifty, according to Mr. Rajni Patel

the employees would not be entitled to the benefits. If the employees are entitled to the benefits given under the Act, I fail to see why, on earth, the

employees who used to enjoy the benefits would cease to enjoy those benefits merely because the factory in July, and August 1954 had, upon its

register, employees less than fifty. Mr. Rajni Patel contends that as soon as the number of employees in the factory became less than fifty, it was

open to Government to issue a notification applying to this factory the provisions of the Act. That argument is clearly wrong because the intention

of Section 1(3) is clear which is that the Act, in the first instance, applies to all factories in which fifty or more persons are employed. Then the

second part of Section 1(3); provides for cases where the number of employees is less than fifty in which case a Central Government notification

would be necessary. Section 1(3) therefore, shows that a distinction is made between the modes in which the Act ''is to be made applicable. Mr.

Rajni Patel says that this is a penal statute and should receive a strict construction. If there are two interpretations, the interpretation which is

favorable to a subject must be adopted in a penal statute. But, in this case, we are concerned with a different situation and we arc dealing with a

piece of social legislation. If that is so, then we must give -such an interpretation to its provisions that the object of the Act would be advanced and

the welfare of the workers would be promoted and it is recognised that in such a case the Court would be justified in straining the language of

section in order to promote the object of the Act.

11. In the course of his argument, I put to Mr. Rajni Patel a question as to whether the liability of the employers would, in any way, be increased

by adopting the construction which we propose to adopt and he was unable to give a cogent reply to this question. This shows that the liability of

the employers is, in no way, increased by adopting this construction. If that is the position, then it would be a question for consideration whether

we should not adopt the construction which we are adopting in this case. That this is a proper construction also receives support from the other

provisions of the Act and, in particular, Section 12 and Section 17 on which Mr. Gumaste has relied. The modern trend of interpretation of statute

is different in the case of interpretation of a piece of social legislation. The rule may not be the same as in the case of interpretation of a penal

statute. In the first case, the Court should adopt a beneficial construction and in the latter case, a strict construction would be necessary and I think

we should give to Section 1(3) that Interpretation which would most accord with the object of the Act and would promote the well-being of the

workers. If I am not mistaken, the argument urged on behalf of the respondents really is that if the employers were to give the benefits to the

employees when the workers are less than fifty, it would not be convenient to the employers to do so. But this is an argument of hardship or

inconvenience and arguments of hardship and inconvenience have no place in the construction of statutes. In my opinion, therefore, I would give to

Section 1(3) an interpretation which will be beneficent to the employees and on that view, it'' seems to me that the view taken by the lower Court is

erroneous.

12. PER CURIAM: The appeal will, therefore, be allowed, the order of acquittal will be set aside and the case will be sent back to the learned

Magistrate to be disposed of in accordance with law.

13. Appeal allowed.