

LPA no. 618 of 2015 (O&M) 1

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**LPA no. 618 of 2015 (O&M)
Date of Decision : 12.01.2017**

Central State Farm, Sirsa Road, Hisar

....Appellant(s)

Versus

State of Haryana and another

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

Present : Mr.Tribhuvan Dahiya, Advocate for the appellant

Mr. K.L.Arora, Advocate for Haryana Welfare Board

MAHESH GROVER, J.

This appeal is directed against the judgment of the learned
Single Judge dated 24.12.2014.

The question is of applicability of the Punjab Labour Welfare
Fund Act, 1956 (hereinafter referred to as the 'Act') to the appellant-
establishment is in question. Learned Single Judge while placing reliance on
Section 26 of the Act which we may extract herebelow, held that the Act
would apply to the appellant :

“Section 26 - Application of the Act to
certain establishments of Central and State Governments.

This Act shall apply to such establishments
belonging to the Central Govt., or any State Govt. as are
referred to in sub-clause (i) and (ii) of clause (4) of

Section 2.”

Before us it has been contended that Section 26 stood omitted by virtue of amendment of the year 2007 and this fact was never brought to the notice of the learned Single Judge.

We have noticed the amendment which is undisputed and omits Section 26 altogether. We also notice from the amended Act that definition of establishment stands altered. For the purposes of reference, we may reproduce the un-amended definition of the word 'establishment' as also the amended one.

Un-amended Section 2(4) 'establishment' means

(i) a factory

(ii) a motor omnibus service or

(iii) any establishment, including a society registered under the Societies Registration Act, 1860, and a charitable or other trust, which carries on any business or trade or any work connected there with or ancillary thereto and has been employing on any working day during the preceding twelve months more than twenty persons.”

Amended Section 2 (4) establishment means

a factory and includes any premises including the precincts thereof wherein and in any part of which any industry within the meaning of clause (j) of section 2 of the Industrial Disputes Act, 1947 (Act 14 of 1947) is carried on and also includes a shop or a commercial establishment within the meaning of the Punjab Shops and Commercial Establishments Act, 1958 (Punjab Act 15 of 1958) in which on any day, ten or more

employees are employed or were employed during the preceding twelve months.”

We are of the considered view that the learned Single Judge before whom the amended provisions were not there proceeded on the premise largely on account of lack of assistance from the contesting parties. Therefore, it would be in the fitness of the things that the impugned judgment is set aside and the matter is remitted back to the learned Single Judge for decision afresh in view of the altered position of law. Ordered accordingly.

Disposed of.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

12.01.2017

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No