



212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 137 of 2018 (O&M)

Date of decision: 16.10.2024

State of Haryana through its Commissioner
and Secretary to Government,
Department of Women & Child Development,
Haryana and others

...Appellants

Vs.

Raj Bala and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Naveen S. Bhardwaj, Addl. Advocate General, Haryana
for the appellants.

Mr. Subhash Ahuja, Advocate
or respondent No.1.

ANIL KSHETARPAL, J.

1. Brief facts and Introduction:-

1.1 Through this intra Court appeal, State of Haryana assails the correctness of the judgment passed by learned Single Judge, which in turn has affirmed the Labour Court's award ordering reinstatement of the respondent with continuity of service and 25% backwages.

1.2 The only issue debated before this Court is as to whether Anganwari Worker falls within the definition of 'workman' as defined in



Section 2(s) of the Industrial Disputes Act, 1947 and the honorarium paid to her falls within the definition of 'wages' under Section 2(rr) of the Industrial Disputes Act, 1947(hereinafter referred to as 'the ID Act').

2. Submissions Put forth:-

2.1 Learned State counsel heavily relies upon the judgment passed by Gujrat High Court in '**Child Development Officer & other vs. Priyankaben Kiralkumar Sheth**', to contend that Anganwari Worker or Helper does not fall within the definition of workman because the honorarium paid to her does not amount to wages.

2.2 *Per contra*, learned counsel representing the respondents has relied upon a Division Bench Judgment of Bombay High Court (Nagpur Bench) in '**Vidya Vishnu Vanare vs. State of Maharashtra**', **2011(3) Service Cases Today 500.**

3. Analysis and Discussion:-

3.1 In these circumstances, though the facts are not relevant, however, to complete narration relevant facts are noticed. The dispute raised by the respondent was referred to the Industrial Tribunal-cum-Labour Court, Union Territory, Chandigarh, on a reference made by Chandigarh Administration. It is her case that she joined the service as Anganwari Worker on 10.06.1994 and had unblemished record of service. However, the Management terminated her services on 31.03.2008, while passing a stigmatic order on the basis of enquiry conducted at her back, neither any charge-sheet was issued nor any Enquiry Officer was appointed, which was communicated vide letter dated 02.04.2008.



The Labour Court by an elaborate award passed on 20.03.2015 answered the reference in favour of the workman. She was held entitled to reinstatement with continuity of services and 25% backwages. The correctness of the award passed by the Labour Court was challenged in a writ petition by State of Haryana, which was dismissed on 10.11.2017 on the ground that the reference stated 16.02.2009 has never been questioned by the Employer (State of Haryana).

3.2 This Bench proceeds to adjudicate the dispute.

3.3 Sections 2(j), (rr) and (s) of the ID Act defined words 'industry, wages and workman respectively', which are extracted as under:-

"Section 2(j): industry "means any business, trade, undertaking, manufacture or calling of employers and includes any calling service, employment, handicraft or industrial occupation or avocation of workmen.

Section 2(rr): "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a workman in respect of his employment, or of work done in such employment, and includes [Inserted by Act 43 of 1953, Section 2 (w.e.f. 24.10.1953).] [but does not include-(a)any bonus;(b)any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;(c)any gratuity payable on the termination of his service;]

Section 2(s):"workman" means any person (including an apprentice) employed in any industry to do



any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-[Substituted by Act [46 of 1982](#), Section 2, for Cl. (s) (w.e.f. 21.8.1984).](i)who is subject to the Air Force Act, 1950 ([45 of 1950](#)), or the Army Act, 1950 ([46 of 1950](#)), or the Navy Act, 1957 ([62 of 1957](#)); or(ii)who is employed in the police service or as an officer or other employee of a prison, or(iii)who is employed mainly in a managerial or administrative capacity, or(iv)who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]”

3.4. The word 'industry' has been elaborately explained by Seven Judge Bench of the Supreme Court in a celebrated judgment passed in **‘Banglore Water Supply and Sewerage Board Vs. A Rajappa and others’, 1978(2) SCC 215.** While relying upon the judgment passed in **‘State of Bombay and others vs. The Hospital Mazdoor Sabha and others’, AIR 1960 Supreme Court 610,** the Court explained that wherever there is systematic activity, in which, there is cooperation between employer and employee, there is industry.



3.5 The Anganwari Workers/Helpers are engaged under The Integrated Child Development Services Scheme, which was launched in the year 1975 with the objectives to improve the nutritional and health status of children, lay the foundation of proper physiological, physical and social development of child; to reduce the incidence of mortality, morbidity, malnutrition and school dropouts; to enhance the capability of mother to look after normal health and nutritional needs of the child and other related services. The Anganwari Workers/Helpers are paid fixed amount on monthly basis, which is called honorarium. Hence, the significant question is whether the honorarium paid would fall within the definition of wages as defined in Section 2(rr) of the ID Act. It is evident that the definition of word 'wages' is very wide and extensive. The statute has used the expression 'wages' which means 'all remuneration capable of being expressed in terms of money'. Thereafter, it has been defined that the word 'wages' includes four categories, namely, such allowances including dearness allowance, value of house accommodation, supply of light and water or medical attendance, any travelling concession and any commission payable on promotion of sales or business or both. Thereafter, there are three kinds of payment which have been excluded including bonus contribution paid or payable by the employer to any pension fund or provident fund or gratuity payable on termination of his service. Thus, the definition of 'wages' includes 'all remuneration capable of being expressed in terms of money'.

3.6 When compared the definition of 'employee' in Section 2(e) as



given in Payment of Gratuity Act, 1972, the word 'workman' in the Act, 1947 are different.

3.7 The Division Bench of Bombay High Court in **Vidya Vishnu Vanare's** judgment has explained that the Anganwari Workers/Helpers fall within the definition of 'workman' and the payment made to them falls within the definition of 'wages'. Para 8 of the judgment extracted as under:-

*“Looking to the above functions of these Anganwadi Sevikas and workers, prescribed by the Government and the very scheme which is in vogue since 1975 and the activities under the said scheme, we are of the view that the Anganwadi Sevikas and Anganwadi helpers and in particular the present petitioner are 'workman' within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 and the scheme under which they are performing their work, nature of which has already been given by us above is nothing but an 'industry' within the meaning of definition of 'industry' as per Section 2(j) of the Industrial Disputes Act, 1947. We have no doubt that ICDS Scheme is systematic activity in which there is a cooperation between employer and employee. We also find that the said function under the ICDS Scheme does not fall within the meaning of the term 'sovereign function' as explained by the Hon'ble Supreme Court in the case of **Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and others**, reported in **1978 Supreme Court Cases (L & S) 215.***

*In the said decision in the case of Bangalore Water Supply and Sewerage Board (Supra) the case of **State of Bombay Vs. Hospital Mazdoor Sabha**, AIR 1960 SC 610 :*



(1960)1 LLJ 251 was considered. We have therefore no doubt that the petitioner is a 'workman' and the establishment in which she has been working under respondent No.2 - Zilla Parishad, namely, ICDS Scheme is an 'industry.' ”

3.8 In ***Priyankaben Kiralkumar Sheth's judgment*** (supra), the reliance was placed on a Division Bench Judgment in **'Patdi Taluka Panchayat and others vs. Zebunnisha Nathumiya c/o Jilla engineering & General Kamdar', 2011 (3) CLR 733.** On its careful reading, it is evident that the Division Bench overlooked the definition of wages in Section 2(rr) of the ID Act though it noticed the definition under Section 2(k) and 2(s) of the ID Act. Moreover, the Division Bench erred in relying upon the Judgment passed by the Supreme Court in **'State of Karnatka Vs. Ameerbi', 2007 (11) SCC 681,** which was in the context of as to whether the Anganwari Workers are holders of a Civil post or not. There is another Division Bench judgment of Gujarat High Court in **'Manjulaben Meghjibhai Bagada vs. Bal Vikas Adhikari and another' 2018(1) CLR 1029,** in which reliance has been placed on ***Zebunnisha Nathumiya's case*** (supra). With highest respect, both the Division Benches of Gujarat High Court have overlooked the definition of word 'wages' as defined in Section 2(r) of the ID Act. The judgment passed in ***Ameerbi's case*** (supra) was in the different context. Learned representing the respondent has also drawn the attention of the Court to a recent judgment of the Supreme Court in **'Maniben Maganbhai Bhariya vs. District Development Officer, Dahod', 2022 SCC Online SC 507,** decided on 25.04.2022 to



contend that Anganwari Workers/Helpers have been held entitled to payment of gratuity. No doubt para 48 holds that the honorarium paid is basically the quantum money offered/conferred to somebody who is especially a professional or a well honored person for providing voluntary service. Hence, the Court held that the honorarium paid to Anganwari Workers does not fall within the definition of honorarium. However, as already noticed the definition of ‘wages’ as well as ‘employee’ in Payment of Gratuity Act, 1972 is different from the definition of ‘workman’ and ‘wages’ as defined in Industrial Dispute Act, 1947.

4. **Conclusion:-**

- 4.1 This Court respectfully follows the view taken by the Division Bench of the Bombay High Court and hold that Anganwari Workers/Helpers fall within the definition of workman and the honorarium paid to them is wages for the purpose of Industrial Disputes Act, 1947.
- 4.2 Accordingly, the appeal is dismissed.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

16.10.2024

neeraj	Whether speaking/reasoned :	Yes	No
	Whether Reportable :	Yes	No