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Court : Karnataka

Decided On : Apr-12-1962

Reported in : (1963)ILLJ638Kant

Judge : A.R. Somnath Ayyar, J.

Acts : Industrial Disputes Act, 1947 - Sections 2 and 25F

Appeal No. : Civil Revision Petition Nos. 1147 and 1148 of 1960

Appellant : Codialabail Press

Respondent : Monappa (K.)

Judgement :
ORDER

1. The petitioner who is the manager of a printing press, complains against the direction made against him under S. 15 of the Payment of Wages Act, for the payment of retrenchment compensation to his quondam employees, the respondents. The respondents contended that they had been retrenched and that the retrenchment compensation payable under S. 25F of the Industrial Disputes Act, was claimable as wages under the Payment of Wages Act. The petitioner denied the retrenchment and asserted that the respondents were retired from service after they attained the age of superannuation. Functioning under S. 15 of the Payment of Wages Act, the District Magistrate Gave the respondents the order they wanted, and the District Court dismissed the petitioner's appeals preferred

under S. 17 of the Payment of Wages Act.

2. The first argument presented is that the applications of the employees were not entertainable under S. 15 of the Payment of Wages Act, since according to the petitioner the only order which may be sought under its provisions is one for the payment of wages, which, though admittedly due had been subjected to illegitimate deductions or had not been paid. That section, it was submitted, had to application to a claim for retrenchment compensation, where the employer denies the retrenchment, where the employer denies the retrenchment. The foundation of the employees' claim, is S. 25F of the Industrial Disputes Act which directs the payment of the compensation specified in it to a retrenched employee. The compensation so payable, it is contended, being wages, as defined by S. 2(vi)(d) of the Payment of Wages Act, is recoverable under S. 15 of that Act. That definition is :

'2. Definitions. - In this Act, unless there is anything repugnant in the subjects or context, -

* * * (vi) 'wages' means all remuneration (whether by way of salary, allowances, or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes -

* * * (d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions but does not provide for the time within which the payment is to be made; * * *'

3. Section 15 of the Payment of Wages Act under which the respondents made their claim reads :

'15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims. - (1) The State Government may, by notification in the official gazette, appoint any Commissioner for Workmen's

Compensation or other officer with experience as a Judge of a civil Court or as a stipendiary magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area.

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorized in writing to act on his behalf, or any inspector under this Act, or any other person acting with the permission of the authority appointed under Sub-section (1), may apply to such authority for a direction under Sub-section (3) :

Provided that every such application shall be presented within six months from the date on which the deductions from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be :

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period. (3) When any application under Sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under S. 3, or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter : ' * * *'

4. This section makes it clear that what may be decided under its provisions is a claim for wages improperly deducted or withheld in contravention of the Act. Now, in these cases, the employees contend that the termination of their service amounted to retrenchment within the meaning of that expression occurring in S. 2(oo) of the Industrial Disputes Act, entitling them to the payment of the compensation specified in S. 25F of that Act. If S. 15 confers jurisdiction to

investigate the truth or otherwise of the assertion that the employees were retrenched, and, if retrenchment compensation is a wage, an order for its payment could properly be made under the Act if there had been a retrenchment. The first question is whether an enquiry into the question whether there was a retrenchment of the respondents was possible under the Act.

5. The Payment of Wages Act was enacted to regulate the payment of wages to certain classes of persons employed in an industry. Section 2 contains the definitions. Section 3 makes the employer responsible for the payment of all wages required to be paid under the Act. Section 4 fixes the wage periods. Section 5 specifies the time for payment of wages. Section 6 directs the wages to be paid in current coins or currency notes. Section 7 enumerates the deductions which may be made from wages. Section 8 places limitations on the imposition of fine by an employer on an employee. Section 9 provides for deductions for absence from duty and S. 10 for damage or loss caused by the negligence of an employee. Sections 11, 12 and 13 place limitations on the power of an employer to make deductions under S. 7. Section 14 provides for the appointment of inspectors for the purpose of the Act and then occurs S. 15 which provides for the decision of claims arising out of deductions from wages or delay in their payment. Section 16 prescribes the procedure in respect of claims by unpaid groups of employees. Section 17 provides for an appeal from a decision under S. 15. Sections 17A and 19 prescribe the machinery for the recovery of wages ordered to be paid. Section 18 clothes the authority appointed under S. 15 with the powers of a civil Court for the purpose of his enquiry. Section 20 prescribes penalties for offences under the Act and S. 21 the procedure for the trial of those offences. Section 22 bars the jurisdiction of the civil Court in respect of matters regulated by the Act. Section 23 prohibits the employee from contracting out of his rights under the Act. These are the relevant provisions of the Act. Section 5, 9, 11, 12, and 13 demonstrate that in an enquiry into a complaint under S. 15 what may be investigated is whether the wages were not paid within the time specified in S. 5 or whether the deductions if made from those wages exceed those permitted by Ss. 9, 11, 12 and 13.

6. The main purpose of the Payment of Wages Act, as revealed from its provisions, is, the prevention of illegitimate deductions from the wages of an

employee and the delay in their payment. Under S. 15 of the Act which aims at the accomplishment of that purpose, every adjudication necessary for the fulfillment of that object may prima facie appear permissible. Where, for example, an employer admits that the relationship of employer and employee subsists between him and the applicant, but there is a controversy about the quantum of wages payable by him to the applicant, an enquiry into that question for the purpose of determining the actual amount payable by way of wages on the basis of the admitted terms of employment would, it is reasonable to thinks, fall within the orbit of an enquiry under S. 15. Other similar incidental questions may also fall within the scope of such enquiry although it would be difficult to make an exhaustive enumeration of the questions which may properly form the subject-matter of such adjudication.

7. But, if an application for wages is resisted on the plea that the appellant is not and was at no time an employee, the jurisdiction to enquire into the truth of the employment would be debatable.

8. The other question - and, that is the real question arising in these cases - is what are the disputes arising out of the termination of an admitted employment which may be investigated under the Act. The effect of Sub-clause (d) of S. 2(vi) of the Act is that a sum payable in consequence of the termination of the employment of the employee under a law, contract or instrument would be wages for the purpose of the Act. The respondents contend that the compensation claimed by them being a sum payable under a law, namely, the Industrial Disputes Act, falls within the category of wages and could be claimed under the Payment of Wages Act.

9. It seems to me that even if retrenchment compensation payable under S. 25F of the Industrial Disputes Act can be regarded a wages - and I think it has that character - an order for its payment could be made under S. 15 only when the retrenchment is not disputed or is clearly indisputable. But if the employer who admits the termination of the employment disputes that the termination was by the process of retrenchment, there being no provision in the Payment of Wages Act for an adjudication on that matter, the foundation for a complaint under S. 15 that wages though due were withheld would be unavailable, since the purpose of the

Act is to enforce payment of wages in a case where the facts admitted by the employer clearly establish the liability to pay the wages and it is complained that there is non-payment or incomplete payment. The limited purpose of the Payment of Wages Act, in my opinion, is that speedy and summary enforcement of the payment of wages and the whole of those wages when they become due, in cases in which the existence of the right to such wages is reasonably clear.

10. Now, it is clear from S. 2(vi)(d) of the Act that wages claimable under the Payment of Wages Act may fall within five categories. Remuneration claimable under the expresser implied terms of the engagement would be the first category : remuneration claimable under any award, settlement or order of a Court would be the next; remuneration to which the employee is entitled when he does additional work or during the holidays or leave periods is the third; additional remuneration claimable under the terms of employment by whatever name it is called is the fourth; compensation payable under a law, contract or instrument when the employment is terminated, is the fifth; into the last category fall moneys payable under a statutory scheme.

11. It will thus be seen from the various sub-clauses of S. 2(vi) that what would be wages for the purpose of the Payment of Wages Act are only those sums of money to which the employee is entitled under the express or implied terms of the engagement or an award or a settlement or an adjudication of a Court or some statutory provisions or scheme. So, it becomes plain that in cases in which there is no dispute that remuneration or additional remuneration such as bonus is payable in respect of work done by the employee, it will be within the power of the authority functioning under S. 15 of the Payment of Wages Act, when a complaint is made that such remuneration has not been paid at all or has not been fully paid, to decide that complaint and to direct the payment of unpaid remuneration. Similarly, it has the power to make an order for such payment when there is no dispute that the wages claimed are payable under an award or a decisions of a Court or under a scheme framed under an existing statutory provision. Cases in which it is not disputed that the termination of the employment is such as to entitle the employee to compensation under the terms of the agreement or under any statutory provisions likewise can present no difficult. All these cases fall within one or the

other of the five sub-clauses of Clause (vi) of S. 2 of the Payment of Wages Act.

12. Cases which, however, present difficulty are, firstly, those already discussed in which the employer disputes that the applicant is not an employee or where, as in the present case, the application for payment rests on Sub-clause (d) of Clause (vi) of S. 2 and the employee asserts that though he terminated the services of the employee, the termination was such as not to entitle the employee to any compensation. An equally difficult situation might arise in a case where the employee claims to be continuing in employment and claims wages for that reasons, and, the employer asserts that he is no longer an employee and that the employment was terminated either by dismissal or by registration.

13. There may be cases in which although the employer might repudiate on other grounds the claim of the employees for wages, it would be unreasonable to deny power under S. 15 to makes an investigation into incidental and ancillary questions, an adjudication upon which may be inevitable and indispensable. Such cases are, for example, those in which the employment is admitted but its terms are not. In such cases, it may be possible to contend that it is the plain duty of the authority to ascertain those terms and that it would be unreasonable for the employer to insist that such ascertainment should be made only in a suit. Likewise, when a claim rests upon an award or a settlement or a decision of a Court, and the award or settlement or the Court's decision is produced by the employee and if the decision of the Court or the award is on its face conclusive of the matter and binding on the employer, the employer can have no answer to that claim.

14. The scheme and purpose of the Payment of Wages Act, to my mind, it clear that claims which may be decided under S. 15 of that Act are only those in which the foundation of the claim is beyond controversy or is indisputable or reasonably clear although there may be a dispute about its measure or magnitude. But if the basis of the claim as distinguished from its amplitude is itself impugned, and the dispute is about the foundational facts constituting such basis which cannot be satisfactorily resolved in a summary enquiry, the controversy falls outside the orbit of the enquiry authorized by the Act. The foundation of a general rule defining the ambit of the jurisdiction which may be exercised under the Act being impracticable,

each case, in my view, must be decided on its own facts and the nature of the controversy between the parties.

15. This view which I take on the construction of S. 15 has the support of judicial authority. In A. R. Sarin v. B. C. Patil [1951 - II L.L.J. 188] the High Court of Bombay was inclined to take the view that the mere denial of the factum of employment did not oust the jurisdiction of the authority functioning under S. 17 of the Payment of Wages Act, and that, if the employer denied or disputed the fact that the applicant was employed by him, it would be for the authority to decide that question, and to proceed to decide the further question as to what are the terms of the contract. But their lordship of that High Court proceeded to observe that the jurisdiction conferred by S. 15 did not extend to the determination of the question whether the contract had terminated as alleged by the employer or was still subsisting as alleged by the applicant. A clarification of this enunciation was made by that High Court in K. P. Mushran v. B. C. Patil [1951 - II L.L.J. 584]. Referring to the earlier decision, this is what their lordships observed at p. 586 :

'It is true that we pointed out in Sarin v. Patil [1951 - II L.L.J. 188] that delay in payment of wages can only mean delay in payment of wages which are admitted. But we have explained later on in the judgment as to what is the meaning of 'wages which are admitted.' When an employer refuses to pay wages rightly or wrongly, contending that the respondent is not his employee and that he had dismissed him and therefore nothing is due to him, then, according to that decision, the authority has no jurisdiction to determine whether the refusal of the petitioner to pay wages was justified or was valid in law. Therefore, it is only in a case where the employer has put an end to the contract of employment, has dismissed his employee, and the employee is complaining of a wrongful dismissal and claiming damages from his master for wrongful dismissal, that, according to us in that decision, the jurisdiction of the authority was ousted to determine questions with regard to the wrongful dismissal.'

16. The interpretation of S. 15 of the Payment of Wages Act came up again before the Court in Anthony Sabastin Almeda v. R. M. Taylor [1957 - I L.L.J. 452], and it was pointed out on that occasion that it could never have been the object of the

legislature that the Authority under the Payment of Wages Act should try and decide complicated questions which should normally be decided by a civil Court. Although their lordships were of the view that the construction of the contract creating the engagement was within the competence of the authority, they proceeded to observe :

'But when the very basis of the relationship is in dispute and in controversy, the legislature did not intend that a Court of summary jurisdiction should decide that important question . . . It should also be borne in mind that in this case the employees challenges the factum of the subsequent contract. He also challenges the validity of that contract, assuming that that contract was arrived at. Therefore, the authority has been called upon to decide not only the factum of the subsequent contract but also its validity. These are questions, which according to us do not fall within the ambit of the jurisdiction of the authority.'

17. A somewhat different view had been expressed by the same High Court in C. S. Lal v. Shaikh Badshah [1956 - II L.L.J. 457] in which the employees of the Railway Department who had provisionally opted for service in Pakistan subsequently revoked their choice and the question was whether they had ceased to be employees and whether they were re-employed after they had made their final decision. The High Court thought that that question could be decided under S. 15 of the Act. But a clear pronouncement on the construction of that section was made by a Full Bench of the High Court of Bombay in Viswanath Tukaram v. General Manager, Central Railway [1957 - II L.L.J. 250], in which it was observed :

'. . . the law as to the jurisdiction of the Authority under the Payment of Wages Act is fairly well-settled. If it is necessary at all, we will reiterate it as briefly as possible. The leading case on the subject is Sarin v. Patil [1951 - II L.L.J. 188], where a Division Bench was for the first time called upon to consider the scheme of the Act and the jurisdiction of the authority under the Act, and in that decision we laid down that the authority had no jurisdiction to decide whether the services of an employee had been rightly or wrongly terminated or whether the dismissal was lawful or unlawful. We said that such a question would not come within the purview of the special tribunal set up under the Act. Although that was the question that

arose for our determination, we also made it clear as to what was the nature and ambit of the jurisdiction of the authority, and in brief what we said was that the primary function of the authority was to determine what the wage of the employee were and whether there had been a delay in payment of those wage or a deduction from those wages, and in order to determine the wages it may be necessary to determine what the terms of the contract were under which the employee was employed and under which he was claiming his wages. It may also be necessary, we pointed out, to decide whether the employee was employed by the employer or not because the question of a contract can only arise provided there was employment. Therefore, in order to determine what the contract was, what the terms of the contract were, what were the wages due under the contract, it might become necessary for the authority to determine whether in the first place there was an employment or not.'

18. The declaration of the law on the jurisdiction conferred by S. 15 was authoritatively made in the year 1960 by the Supreme Court in Ambica Mills Company, Ltd. v. S. B. Bhatt [1961 - I L.L.J. 1]. The employees in that case made an application under the Payment of Wages Act for a direction for the payment of delayed wages. The contract of employment was admitted but there was a dispute as to, which of two subsisting contracts governed the employees. The Supreme Court expressed the view that the case was similar to the one in which a contract of employment was admitted but there was a dispute about the construction of its terms. It was pointed out that since a dispute about the construction of an admitted contract was plainly within S. 15 of the Act, a case in which the dispute is as to the applicability of two subsisting contracts, fell equally within that section. The decision of the High Court of Bombay in Anthony Sabastin Almeda v. R. M. Taylor [1957 - I L.L.J. 452] (vide supra) was distinguished on the ground that, in that case, the existence of two subsisting contracts was not admitted. On pp. 7-8 [1961 - I L.L.J. 1] it was observed :

'In dealing with claims arising out of deductions or delay made in payment of wages the authority inevitably would have wages the authority inevitably would have to consider questions incidental to the said matters. In determining the scope of these incidental questions care must be taken to see that under the guise of

deciding incidental matters the limited jurisdiction is not unreasonably or unduly extended. Care must also be taken to see that the scope of the incidental questions is not unduly limited so as to affect or impair the limited jurisdiction conferred on the authority. While considering the question as to what could be reasonably regarded as incidental questions let us revert to the definition of wages prescribed by S. 2(vi). Section 2(vi), as it then stood, provided inter alia that 'wages' means all remuneration capable of being expressed in terms of money which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and it includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment. It also provided that the word 'wages' did not include five kinds of payment specified in Cls. (a) to (e). Now, if a claim is made by an employee on the ground of alleged illegal deduction or alleged delay in payment of wages, several relevant facts would fall to be considered. Is the applicant an employee of the opponent And that refers to the subsistence of the relation between the employer and the employee. If the said fact is admitted, then the next question would be : What are the terms of employment Is there any contract of employment Is there any contract of employment in writing or is the contract oral If that is not a point of dispute between the parties, then it would be necessary to enquire what are the terms of the admitted contract. In some cases a question may arise whether the contract which was subsisting at one time had ceased to subsist and the relationship of employer and employee had come to an end at the relevant period. In regard to an illegal deduction a question may arise whether the lockout declared by the employer is legal or illegal. In regard to contracts of service sometimes parties may be at variance and may set up rival contracts, and in such a case it may be necessary to enquire which contract was in existence at the relevant time. Some of these questions have in fact been the subject-matter of judicial decisions - vide A. R. Sarin v. B. C. Patil [1951 - II L.L.J. 188]. (vide supra); Viswanath Tukaram v. General Manager, Central Railway [1957 - II L.L.J. 250] (vide supra) and Maharaja Sri Umaid Mills, Ltd. v. Collector of Pali [1960 - II L.L.J. 364], but we do not propose to consider these possible questions in the present appeal, because, in

our opinion, it would be inexpedient to lay down any hard and fast or general rule which would afford a determining test to democrat the field of incidental facts which can be legitimately considered by the authority and those which cannot be so considered. We propose to confine our decision to the facts in the present case.'

19. It is by the application of these principles that the question arising in these cases should be decided. While the employer in these cases pleads that the terms of the engagement provided for the retirement of the employees on their attaining the age of superannuation, and that they were so retired, the employees, on the contrary, assert that they were not and could not be retired but were only retrenched. It is thus clear that the issue between the parties is what goes to the root of the matter. If it is true that the employees were retrenched, it follows that they were entitled to compensation under S. 25F of the Industrial Disputes Act, which, falling as it does, within Sub clause (d) of S. 2(vi) of the Payment of Wages Act, becomes wages, the claim to the payment of which could be decided under S. 15 of that Act. If the employees were not retrenched but were retired, no compensation being claimable under S. 25F of the Industrial Disputes Act or under any other law, it could not be claimed as wages under the Act.

20. The controversy, therefore, is whether in fact the employees were retrenched. It is admitted there is no order of retrenchment as such, and that what the employer purported to do, was, not to retrench them but to retire them. The employer claims the right to do so and the source of that right, according to him, is the contract creating the engagement. If that claim is well founded, to is obvious that the employees cannot establish retrenchment. The process by which the employees deduced retrenchment was to repudiate the power of the employer to retire them to urge that in the absence of such power, the termination of their employment amounted in law to retrenchment. But the notice of termination served on the employees was ex facie a notice giving intimation to them that they had been retired and not that they had been retrenched.

21. The foundation of the claim of the employees was that the employer did not have the power to retire them and that they had the right to continue in their posts

as long as they wished to remains there. The employer claimed the power to retire them under the terms of engagement. In that situation, it was not possible for the District Magistrate to make an order for the payment of retrenchment compensation unless he found in the first instance that the terms of engagement between the employer and the employee did not clothe the employer with the power to retire his employees at any stage. The impugned orders in these cases also reveal that the question whether the employer had the power to retire the employees on their attaining the age of superannuation was a serious question which could not be satisfactorily decided by a summary adjudication. The employer relied upon two documents. Exs. R. 3 and R. 6 which, according to him, incorporate the terms of the engagement between him and the employees. If the employment in these cases was governed by these terms, it is indisputable that the retirement of the employees when they attained the age of superannuation was permissible and within the power of the employer. The employer contended in the year 1924 that they would abide by the 'rules and regulations' incorporated in Exs. R. 3 and R. 6. But the plea of the employees was that the declaration made by them did not relate to those 'rules and regulations.' The employer's contention was repelled on various grounds : one of them was that the originals of Exs. R. 3 and R. 6 were not produced; the other was that the provisions in those rules which did not relate to the age of retirement, were vague; the third was that there were some other rules inconsistent with those appearing in Exs. R. 3 and R. 6; the next was that the employer had allowed some of his employees to continue in service even after they reached the age of superannuation. That the employer had also waived his right to retire the employees on their attaining the age of superannuation and that the terms of the engagement on which the employer depended, were by agreement treated as ineffective, were the other grounds on which the employees succeeded.

22. In my opinion, that kind of difficult enquiry involved in these cases was really outside the scope of summary adjudication permitted by the Act. In effect, what the employees did when they presented their claim was to question the legality and validity of the order of retirement made by the employer. That challenge was in no manner different from the challenge made by a dismissed employee to the order by which he is dismissed. If it is permissible for an authority functioning under S.

15 of the Payment of Wages Act to adjudicate upon the legality of the retirement of an employee, it should be equally permissible for it to decide, under that section, the legality of an order of dismissal. It seems to me that neither of the two adjudications in within the domain of that authority whose limited jurisdiction is to direct the payment of wages, the obligation to pay which is reasonably clear.

23. In Kannappan v. Hoe & Co. [1961 - II L.L.J. 510], the High Court of Madras found no difficulty in coming to the conclusion that the validity of an order of retrenchment or dismissal cannot be assailed in proceedings under S. 15 of the Payment of Wages Act. With that view, I respectfully agree.

24. Mr. Raghunathan, however, contended that in A. D. Divekar v. Dinesh Mills, Ltd. [1955 - II L.L.J. 501], their lordships of the High Court of Bombay expressed the view that compensation claimable under S. 25F of the Industrial Disputes Act was a wage, as defined by Sub-clause (d) of S. 2(vi) of that Act. That proposition may be above criticism. But the question really is whether the tribunal can direct the payment of such compensation even if the employer does not admit that he retrenched his employee but claims to have properly retired or dismissed him.

25. B. N. Elias & Co. (Private), Ltd. v. Authority of Payment of Wages Act [1961 - II L.L.J. 297] on which Mr. Raghunathan next depended, was a case in which the retrenchment of the employee was admitted is, therefore, distinguishable.

26. In Union of India v. Babu Ram [1961 - II L.L.J. 708], the employee when he made an application under S. 15 of the Payment of Wages Act had obtained a decree in a suit brought by him for a declaration that his removable from his post was illegal. A second appeal from that decree was then pending before the High Court. The question requiring investigation was whether the applicant was, when he made his application, still an employee or whether his employment had terminated. Dhavan, J., was of the view that if an employee was removed from service by an order of a competent authority after observing the prescribed procedure, the removal was effective though wrongful and the employee could only claim damages, the authority having no power to hear the dispute under S. 15 of the Act. Although in one part of his decision, his lordship though it immaterial whether the employer alleged that the applicant was never his employee or had

ceased to be one as a result of his removal, it is clear that he had no doubt in his mind that a wrongful removal from service was not justiciable under the Payment of Wages Act. It is, however, plain that the decision in that case rested on its own peculiar features. But, I must say, if I may say so with great respect, that I hesitate to subscribe to the proposition enunciated in it that S. 15 of that Act confers jurisdiction to decide whether the relationship of master and servant was created between the employer and the applicant or was subsisting at the relevant point of time.

27. In my opinion, the adjudication into the competence of the employer to retire his employees was, in the case before me, wholly outside the bounds of the jurisdiction created by S. 15 of the Payment of Wages Act.

28. In the view that I have taken, the impugned orders of the District Court and the authority from which the appeal was preferred to it are both liable to be set aside.

29. But Mr. Raghunathan has contended that the revisional power of this Court under S. 115 of the Code of Civil Procedure does not extend to the order made by the District Court in those cases. In support of this argument, reliances was placed on the provisions of S. 17(2) of the Payment of Wages Act which directs that an order made under S. 15 shall be final, subject to the result of an appeal preferred under S. 17(1). In my opinion, this argument is unacceptable. Since the District Court hearing an appeal under S. 17 is a Court subordinate to this Court, the revisional power of this Court under S. 115 of the Code of Civil Procedure clearly extends to its decisions and to the proceedings before it. The District Court functioning under S. 17 is not a persona designata, but a Court, and, so long as that Court is subordinate to this Court, the proceedings before it and clearly revisable under S. 115 of the Code of Civil Procedure. Nor is there anything in Sub-section (2) of S. 17 which precludes the exercise of such revisional jurisdiction. All that that sub-section in effect states is that the order made by the appellate Court specified in S. 17 shall not be subjected to any further appeal, and does not place the orders of the appellate Court beyond the ambit of the jurisdiction of this Court. The finality provided for by that sub-section does not made the order of the appellate Court impervious to such revisional jurisdiction. If

the orders of the appellate Court in these Cases are revisable by this Court, it follows that the correctness of the orders complained against in the appeals, is equally open to scrutiny. That being so, if I can come to the conclusion that the District Court which functional as an appellate Court in these cases should have set aside the orders against which the appellate Court could not have confirmed the orders appealed against, but, should have vacated them. Those orders, which the appellate Court should have made, are what I can and should now make.

30. These revision petitions are, therefore, allowed; the orders of the District Court and of the authority from which the appeals were preferred to it are both set aside. The applications presented by the respondents are dismissed.

31. In the circumstances, there will be no order as to costs.

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