

In Re: Polisetti Lakshmayya

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Court : Andhra Pradesh

Decided On : Jan-22-1959

Reported in : (1959)ILLJ556AP

Judge : Basi Reddy, J.

Appellant : In Re: Polisetti Lakshmayya

Judgement :

ORDER

Basi Reddy, J.

1. One Polisetti Lakshmayya is the petitioner in all these three revision cases arising out of three calendar cases and in each of them he has been convicted of an offence under Section 18(1), read with Section 22(2) of the Minimum Wages Act, 1948, and Rules 21(4) and 22(2) of the Minimum Wages (Central) Rules, 1950, and in each of the cases he has been sentenced to pay a fine of Rs. 50. A common question of law arises in all these three cases and they will all be disposed of by one order.

2. The gravamen of the charge against the petitioner was that he was working stone quarries at Katheru in Rajahmundry; that he had to conform to the provisions of the Minimum Wages Act and the Minimum Wages Rules framed thereunder; that he had failed to maintain the registers as prescribed by the Act and the rules and he was therefore liable to be punished under Section 22(2) of

the Act. The case for the prosecution was that the petitioner was an employer and that he had employed a number of employees to work the quarries.

3. The plea of the petitioner was that he was not working the quarries himself but was giving them on contract basis to contractors, who in their turn employed workmen to operate the quarries. In support of his plea he examined a number of persons who claimed to be contractors and who stated that they were working the quarries by employing members of their own families. The Court below has believed the defence evidence and found that the work was being done by contractors and not by the petitioner directly. It has nevertheless come to the conclusion that the contractors are 'employees' and the petitioner is an 'employer' within the meaning of those terms in the Act and that the petitioner was therefore bound to conform to the provisions of the Act and the rules framed thereunder.

4. I am clearly of opinion that the lower Court has fallen into an error of law. The term 'employer' is defined by Section 2(e) of the Minimum Wages Act as follows:

Employer means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act;

and the term 'employee' is defined in Section 2(1) as follows:

Employee means any person who is employed for hire or reward to do any work skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed.

Section 26(3) lays down that;

Nothing in this Act shall apply to the wages payable by an employer to a member of his family who is living with him and is dependent on him.

So that, before a person is made liable under the Act, he must be proved to be an 'employer,' which according to the definition in Section 2(e) means a person who employs, whether directly or through another person one or more

employees. On the finding: recorded by the lower Court, I am of opinion that the petitioner is not an employer within the meaning of the Act; the employers would be the several contractors who were having the work done by engaging workmen. In this connexion vide the Supreme Court's ruling in Chintaman Rao v. State of Madhya Pradesh 1958-II L.L.J. 252. It follows that the petitioner is not an employer who is under an obligation to maintain registers and records as contemplated by Section 18(1) of the Act.

5. At the same time I must say that the evidence adduced by the petitioner in support of his plea that he had given the work to contractors is most unconvincing and the plea itself is an afterthought. This is patent from the fact that when the Labour Inspector, Vijayavada, inspected the quarries and intimated to the petitioner the list of irregularities committed by him, the petitioner in his reply (Ex. P-6) pleaded ignorance of the rules and promised to conform to them and gave an undertaking to rectify the irregularities. At the trial, however, the petitioner took a different stand and produced a number of witnesses to support this case. These witnesses claimed to be contractors under the petitioner, and on a reading of their evidence, I have no doubt whatever that they have come forward to oblige the petitioner by giving false evidence. It is regrettable that the lower Court could not see through the game. If I were dealing with this matter in appeal, I would have disagreed with the lower Court in its appreciation of the evidence; but this being a revision, I do not wish to differ from the finding of fact arrived at by the lower Court.

6. On the finding recorded by the lower Court, however, the petitioner would not be guilty of an offence under Section 18(1), read with Section 22(2) of the Minimum Wages Act. In this view all these revision cases are allowed. The convictions and sentences are set aside and the fines, if paid, will be refunded to the petitioner.