

State of U. P. and Others Vs. Rajendra Kumar

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Court : Allahabad

Decided On : Sep-28-1999

Reported in : 2000(1)AWC155

Judge : N.K. Mitra, C.J. and; M. Katju, J.

Acts : Uttar Pradesh Recruitment of Dependants of Government Servants Dying-in-Harness Rules, 1974 - Rule 2; [Government of India Act, 1935](#) - Sections 213; Government of India Act, 1975 - Sections 173 (3); Licensing Act, 1964 - Sections 75 (5) and 201 (1);

Appeal No. : Special Appeal No. 557 of 1999

Appellant : State of U. P. and Others

Respondent : Rajendra Kumar

Advocate for Def. : B.K. Shukla, Adv.

Advocate for Pet/Ap. : Sabha Jeet Yadav, S.C.

Judgement :

N. K. Mitra, C.J. and M. Katju, J.

1. This Special Appeal has been filed against the impugned judgment of the learned single Judge dated 16.3.99.

2. The grandfather of respondent No. 4 was a Government servant who died in harness and on his death, the petitioner applied for appointment under the dying-In-harness Rules. The father of the petitioner. Lallu Ram was the only son of the petitioner's grandfather Prahlad, and the petitioner was a dependant of his grandfather Prahlad and hence he applied for appointment under the dying-in-harness Rules. Admittedly the petitioner's father Lallu Ram predeceased Prahlad.

3. Under the relevant dying-in-harness Rules, a member of the family of the deceased Government servant is entitled to get appointment under the dying-in-harness Rules. Rule 2 (c) of the U. P. Recruitment of Dependants of Government Servant Dying-in-Harness Rules, 1974 states :

'family' shall include the following relations of the deceased Government Servant :

(i) Wife or husband ;

(ii) Sons ;

(iii) Unmarried and widowed daughters ;

4. Learned standing counsel has submitted that the respondent was not entitled to get appointment under the dying-in-harness Rules, as under Rule 2 (c) he is not a member of the family of the deceased Prahlad, since a grandson is not mentioned in Rule 2 (c). In reply to this contention, learned counsel for the respondents submitted that Rule 2 (c) mentions that the word family shall include the persons mentioned therein. Rule 2 (c) does not use the word 'means' but uses the word 'include'. Had Rules 2 (c) stated that the word family means the persons mentioned thereunder, then of course the argument of the learned standing counsel would have been correct, but the word used in Rule 2 (c) is 'shall include' and not 'shall mean'. It is urged by the respondent that there is a difference between the word 'mean' and the word 'include'.

5. The learned single Judge agreed with this submission and we also agree with the same. The word 'include' connotes that the persons mentioned in Rule 2 (c) are not exhaustive of the meaning of the word family but are only inclusive. This implies that the word 'family' is not limited to the persons mentioned in Rule 2 (c),

but more persons can also be included in the definition of the word 'family' in certain respects.

6. In *Inre Reference under Section 213, Government of India Act. 1935.* , the Federal Court noted that Section 173(3) of the Government of India Act. 1935 which enacted that the word 'properly' in the section includes money, securities, etc. did not define the word 'property'. The Federal Court hence observed that it was, therefore, legitimate to give the expression 'property' a wider meaning so as to include land and buildings.

7. Similarly in *Carter u. Bradbeer*, (1975} 3 All ER 158 (HL), pp. 164. 168, the House of Lords noted that in Section 201(1) of the Licensing Act, 1964, the word 'bar' is defined to include a place which is exclusively or mainly used for the sale and consumption of intoxicating liquor. Referring to this definition, the House of Lords held that the use of the word 'include' showed that the definition did not exclude what would ordinarily and in common parlance be spoken of as a bar, and, therefore, counters used for serving liquor were held to be 'bar' within Section 75 (5) of the Act.

8. In *Shree Gollaleshwar Dev v. Gangawwa* : AIR 1986 SC231 , the Supreme Court held that when by an amending Act, the word 'include' was substituted for the word 'means' in a definition section, the intention was to make it more extensive. Similarly in *State of Bombay v. The HospitalMazdoor Sabha and others* : (1960)ILLJ251SC (vide paragraph 10) the Supreme Court held 'it is obvious that the words used in an inclusive definition denote extension and cannot be treated as restricted in any sense. (Vide Stroud's 'Judicial Dictionary'. Vol. 2. p. 1415). Where we are dealing with an inclusive definition it would be inappropriate to put a restrictive interpretation upon terms of wider denotation.'

9. In *Exparte Ferguson and Hutchinson*. (1871) 6 QB 289. Cotkburn, J. said 'I have heard very frequently where an Act says that certain words shall include certain things, those word ought to be regarded as if they exclusively applied to such things. But that is not so.'

10. In *State of Tamil Nadu v. Pyare Lal* : 1983(13)ELT1582(SC) , the Supreme Court observed that a definition is ordinarily expected to be exhaustive, but its very term may show that it is not meant to be exhaustive, e.g., a definition may say that the term sought to be defined 'Includes' what it specifies, but in that case, the definition is not complete.

11. It may also be mentioned that the modern method of Interpretation, as pointed out by Lord Denning in his Book 'The Discipline of Law', is purposive and not literal. The literal method of interpretation, as pointed out by Lord Denning, is out of vogue everywhere in the world and now the Courts see the intention and not the literal meaning. This view has also been accepted by our Supreme Court in several decisions, e.g., in *Hindustan Lever Ltd. v. Ashok Vishnu Kate and others*, : (1996)ILLJ899SC at paragraphs 41 and 42. In *Administrator, Municipal Corporation u. Dattatrya*. : AIR 1992 SC1846 , the Supreme Court observed 'The mechanical approach to construction is altogether out of step with the modern purposive approach. The modern purposive approach is to have a purposeful construction that is to effectuate the object and purpose of the Act.'

12. In the present case, the respondent was the dependant of his grandfather who died-in-harness. In our opinion, therefore the learned single Judge has rightly held that the respondent is entitled to the benefit of the died-in-harness Rules. The said rules are a piece of beneficial Legislation and have to be liberally construed.

13. For the reasons given above, we are in agreement to the learned single Judge and the appeal is dismissed.