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State Vs. Mansharam and ors.

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Court : Rajasthan

Decided On : Jan-19-1965

Reported in : AIR1965Raj168; 1965CriLJ411

Judge : L.N. Chhangani, J.

Acts : Payment of Wages Act, 1936 - Sections 14 and 24

Appeal No. : Criminal Appeal No. 651 of 1962

Appellant : State

Respondent : Mansharam and ors.

Advocate for Pet/Ap. : S.N. Gupta, Dy. Govt. Adv.

Disposition : Appeal accepted

Judgement :

L.N. Chhangani, J.

1. This is an appeal by the State and is directed against the order of the Munsif Magistrate, Gangapur datad 23rd of May, 1962 acquitting: the respondents of offences relating to contravention of Rules 5 and 8 (2) of the Payment of Wages (Mines)' Rules, 1956 (hereinafter referred to as the Rules) and punishable under Rule 22 thereof.

2. The facts leading to the appeal are briefly these.

That one Gulab Rai Somani was the Labour Inspector (Central) Bhilwara in the year 1961. He was also appointed Inspector under the Payment of Wages Act. On 28th of June, 1961 he inspected Nansa Prospective Mica Mines, Gangapur. Mansharam Gupta respondent No. 1 was then the owner of the mine. Ramchander respondent No. 2 was the agent and Mangilal respondent No. 3 was the Manager. The inspection was done in the presence of Mangilal respondent No. 3. At the time of inspection it was; revealed that (1) the copies of notices required to be displayed under Rule 8 and 8 (i) had not been sent to the Labour Inspector and (2) the register of wages had not been kept either at the work's spot or near it and it was not maintained in form 3. In the opinion of the Labour Inspector, these omissions on the part of the respondents constituted contraventions o Rules 8 (2) and 5 and were punishable under Rule 22 of the Rules. Consequently, on 22nd August, 1961, he filed a complaint against the three respondents in the Court of Munsif and First Class Magistrate, Gangapur. After completing the trial the Munsif Magistrate acquitted the respondents on the ground that Gulab Rai the Inspector had not been appointed Inspector under Payment of Wages Act under Section 14 and consequently, the Court could not have taken cognizance of the offences in view of Sub-section (3) of Section 21 of the Payment of Wages Act (hereinafter referred to as the Act). Aggrieved by this order of acquittal, the State-has filed the present appeal.

3. The only question calling for determination in this appeal is whether the Labour Inspector (Central) Bhilwara is an Inspector under the Payment of Wages Act and, therefore, competent to make or sanction the making of a complaint within the meaning of Sub-section (3) of Section 21. Section 14 of the Act provides for Inspectors under the Act and enumerates the persons who can be treated Inspectors generally or in respect of particular class of factories or industrial establishments. Sub-section (3) thereof which is relevant for our purposes, reads as follows :

'The State Government may, by notification in the official Gazette, appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may

define the local limits within which and the class of factories and industrial establishments in. respect of which they shall exercise their functions.' The Magistrate having noticed that the State of Rajas-than had issued no orders appointing Gulab Rai as an Inspector for the purposes of the Act under Section 14 and guided mainly by the provisions of Section 14, came to the conclusion that Gulab Rai could not be treated as an. Inspector competent to file the complaint. It is true that Section 14 of the Act confers powers upon the State Government to make appointments of the Inspectors under the Act. But, Section 14 is not the sole provision in this behalf. It must be read in conjunction with Section 24 of the Act. Section 24 of the Act reads as follows : --

'The powers by this Act conferred upon the State Government shall, in relation to Railways, mines and oilfields, be powers of the Central Government.' Now, it cannot be at all disputed that the State's competence to appoint Inspectors under Section 14 is derived on account of the conferment of powers upon the State Government by the Act. According to Section 24, the power conferred upon the State Government is exercisable by the Central Government in relation to Railways, Mines and Oilfields. It follows that the Central Government is quite competent to appoint Inspectors for the purposes of the Act in relation to Railways, mines, and Oilfields. There is no doubt that the industrial undertaking of the respondents is a mine and, therefore, an Inspector properly appointed by the Central Government is competent to exercise the functions of the Inspector in respect of the industrial undertaking of the respondents. The Deputy Government Advocate placed before me a notification No. S. O. 1701 P W A/14/Mines/60 Dated 29-6-1960 published in the Gazette of India dated 9th July 1960, which in so far as relevant for our purposes, is as follows:--

'Government of India,

Ministry of Labour & Employment,

New Delhi, the 29th June, 1960.

S. O. 1701 P W A/14/Mines/60-In exercise of the powers conferred by Sub-section. (3) of Section 14 read with Section 24 of the Payment of Wages Act, 1936

(4 of 1936) and in supersession..... the Central Government hereby appoints the under-mentioned officers to be Inspectors for the purposes of the said Act in respect of persons, employed in any mine, to whom the said Act applies, within the local limits noted against each.

I.....

II.....

III..... .....

IV. Regional Labour Commissioner (Central), ...Jabalpur.

1.....

2.....

3. Labour Inspectors (Central), in Madhya Pra-desh region with headquarters at : (i)..... |(ii)..... |(iii)..... | The States of Madhya(iv)... ..... | Pradesh and Rajasthan.'(v) Bhilwara

It is clear from the above that Gulab Rai was properly appointed by the Central Government in the exercise of powers conferred upon the Central Government by Section 24 read with Section 14 and that Gulab Rai was thus an Inspector under the Act and was competent to file the present complaint. Unfortunately, the notification produced by the Deputy Government Advocate and the proper legal effect of Section 24 were not brought to the notice of the Munsif Magistrate and he was thus led to doubt the competence of Gulabrai to file the complaint. Proper facts have been brought to the notice of this Court and on a consideration of the facts I have no hesitation that the complaint before the Munsif Magistrate was properly presented by Gulabrai, who had been properly appointed as an Inspector for executing the purpose of the Act.

4. The acquittal of the respondents in the circumstances, cannot be sustained and must be set aside.

5. The appeal is accepted, the order of acquittal. is set aside and the case is sent back to the Munsif Magistrate for decision on merits.

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