

In Re: K. Chockalingam

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Court : Chennai

Decided On : Jul-17-1953

Reported in : AIR1954Mad324

Judge : Ramaswami, J.

Acts : Factories Act, 1934 - Sections 2

Appeal No. : Criminal Revn. Case No. 1257 and Cri. Revn. Petn. No. 1099 of 1952

Appellant : In Re: K. Chockalingam

Advocate for Def. : Santanam, Adv. for Public Prosecutor, Adv.

Advocate for Pet/Ap. : Alagiriswami, Adv. for S. Ramachandra Aiyar, Adv.

Disposition : Revision dismissed

Judgement :
ORDER

Ramaswami, J.

1. The only, point for decision in this case is whether the persons who were found by the Inspector of Factories employed in the cigar factory can be considered to be workers. It is stated that these workers were employed on a contract basis and

therefore cannot be held to be workers.

2. This would not take them out of the definition of a worker under Section 2(h) of the Factories Act which means a person employed, whether for wages, or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process or in any other kind of work whatsoever incidental to or connected with the manufacturing process or connected with the manufacturing process but does not include any person solely employed in a clerical capacity in any room or place where no manufacturing process is being carried on (c. f. definition of workman in Workmen's Compensation Act 8 of 1923, Section 2, clause (n)). And a factory is defined under clause (j) of Section 2 as follows:

'Any premises including the precincts thereof whereon 20 or more workers are working or were working on any day of the preceding 12 months and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on.'

In other words a person employed in a manufacturing process -- he need not be necessarily a manual worker whether for wages or not -- in any of the ways enumerated in Section 2(h) will be deemed to be employed in the factory: -- ' (D). But persons employed for selling only the manufactured articles do not come within the definition of employed in the factory even though they happen to occupy a room at the factory for the sake of convenience : -- 'Prag Narain v. Emperor', A. I. R. 1928 Lah 78 (E).

On the facts of this case it is quite clear that these 39 workers were employed in the manufacture of cigars, not on the time wages system but on the piece work system. They were paid for so many thousands of cigars turned out by them. Consequently the lower court was right in holding that this accused had employed 39 workers in a factory and was liable to observe the rules and regulations made under that Act, the failure of which constitutes the offence for which he has been charged and convicted. Therefore there are no merits in this revision and it is hereby dismissed.

