

In Re: Balakrishnan (N.N.)

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Court : Chennai

Decided On : Nov-25-1959

Reported in : (1961)ILLJ93Mad

Judge : Somasundaram, J.

Appellant : In Re: Balakrishnan (N.N.)

Judgement :

ORDER

Somasundaram, J.

1. The petitioner in this case has been convicted for not taking out a licence under Section 6 of the Factories Act read with Rule 5(3) of the Madras Factories Rules, 1950. The factory was inspected on 24 July 1957 and 24 persons were found engaged in the manufacture of goods in the same premises. A prosecution was launched and the petitioner was convicted and the conviction is still in force. Subsequently on 7 March 1958 the inspector again visited the place, but on this occasion he found only 18 persons working. The question is whether he can be convicted on the strength of the earlier report of finding 24 persons working on 24 July 1957.

2. It is the contention of the learned Counsel for the petitioner that he having been convicted once, that is for engaging 24 persons on 24 July 1957, that circumstance cannot be taken into consideration again because Section 2(m)(ii) of

the Factories Act says: 'Where twenty or more workers were working on any day of the preceding twelve months' which must be interpreted to mean as prior to the date of the expiry of the licence, that is, prior to 31 December 1957. But then it does not make sense because the first clause says 'where twenty or more workers are working,' that is found working by the inspector on the date on which he goes. Similarly 'were working on any day preceding twelve months' means, if preceding the date on which the inspector visits the place, there were twenty or more persons working, then it will be a factory. Learned Counsel contends that after the conviction the petitioner had ceased to work it as a factory. If he had ceased to work it as a factory, then under Rule 108 of the rules framed, he should make a report to the inspector of the closure of the factory, which, in this case, he has not done. In the absence of any such intimation being sent to the inspector when the persons were found working, the petitioner must be considered to continue to work it as a factory till the intimation is sent. The day preceding twelve months would count only from the date of the inspection by the officer and in this case, notwithstanding the fact that the petitioner has been convicted for what was found on 24 July 1957. he still remains liable for the same unless he closed the factory by giving intimation under Rule 108, which he has not done in this case. Therefore, the factory must be considered to continue to work as a factory and that being run without a licence, the conviction is correct and justified. In the circumstances, I cannot say that the fine is excessive.

3. The conviction and sentence are confirmed and the revision is dismissed.

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