

They may not be persons serving under the Government of India or the Government of a State, nevertheless, they are persons appointed to public services and posts in connection with the affairs of the State. Officers and staff of the High Court are under the administrative control of the Chief Justice. Under the Constitution, he has the exclusive power of appointment, removal and for making rules for the conditions of service. They are performing important functions and they are important functionaries rendering effective service in the administration of justice. The Director General of Posts and Telegraphs will make suitable provisions under the rules to allow similar benefit as has been allowed to the senior officers of Central or State Governments for registration under NON OYT SS Category for new telephone connections to the officers and staff of the High Courts. The Director General will take decision in this regard within three months from the date of receipt of copy of the judgment. Subject to the above observations, the writ petition is disposed of with no order as to costs.

P.C.G.

Before S. S. Sodhi, J.

SHAM LAL,—*Petitioner.*

versus

PEPSU ROAD TRANSPORT CORPORATION AND ANOTHER,
—*Respondents.*

Civil Writ Petition No. 2470 of 1987

3rd September, 1990

Industrial Disputes Act, 1947—Ss. 2(oo) (bb) & 25-F—Retrenchment prior to insertion of S. 2(oo) (bb)—Cl. (bb) operate prospectively—Compliance of S. 25-F is necessary.

Held, that the amendment in Industrial Disputes Act, 1947 which brought in clause (bb) in S. 2(oo) was prospective in nature and would consequently apply to only such termination as takes place after this provision was brought on to the statute book. Such thus being the established position in law, there can be no escape from the conclusion that the termination of the services of the petitioners amounted to retrenchment. They thereby came within the purview of the provisions of S. 25-F of the Act. (Para 5)

**Sham Lal v. Pepsu Road Transport Corporation and another
(S. S. Sodhi, J.)**

Petition under Article 226/227 of the Constitution of India praying that the petition may kindly be accepted and;—

- (i) *the respondents may be directed to produce the entire record of the case;*
- (ii) *a writ of Certiorari or any other writ, order or direction which this Hon'ble Court considers appropriate be issued quashing the award Annexure "P-1" and holding that the termination of Services of the petitioner is illegal and void and the petitioner is entitled to reinstatement with continuity of service and full back wages;*
- (iii) *any other relief to which the petitioner is found entitled in the circumstances of the present case may be allowed?*
- (iv) *cost of the writ petition may be allowed.*

Mrs. Sabina, Advocate, for the Petitioner.

Varinder Pal Singh, Advocate, for the Respondents.

ORDER

S. S. Sodhi, J.

(1) The matter here concerns sub-clause (bb) of Section 2(00) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act').

(2) The two petitioners Sham Lal and Hakam Singh were employed as labourer and cleaner respectively by the Pepsu Road Transport Corporation for a fixed term couple of months at a time. Sham Lal had worked for over two years and Hakam Singh for about 17 months, when no further extension of service was granted to them. This happened before August 19, 1988, when by Act No. 49 of 1984, sub-section (bb) came to be inserted in Section 2(00) of the Act.

(3) It was the case of the petitioners that as their services had been terminated before the coming into effect of clause (bb) of sub-section 2(00) of the Act the termination of their employment entitled them to the benefit of the provisions of section 25F of the Act, and in terms thereof, the termination of their services was illegal.

(4) A reading of the impugned award of the Labour Court would show that the claim of the petitioners was negatived on the ground that in view of the insertion of clause (bb) of Section 2(00) of the Act,

termination of services of the petitioners amounted to retrenchment and they were thus not entitled to the relief sought. It being observed in this behalf that this amendment in the Act had retrospective effect.

(5) It now, however, stands settled by the judgment of the Division Bench of the High Court of Gujarat in *Bharat Heavy Electricals Ltd. Baroda v. R. V. Krishnarao* (1), that the amendment in the Act which brought in clause (bb) in Section 2(00) was prospective in nature and would consequently apply to only such terminations as take place after this provision was brought on to the statute book. Such thus being the established position in law, there can be no escape from the conclusion that the termination of the services of the petitioners amounted to retrenchment. They thereby came within the purview of the provisions of Section 25F of the Act.

(6) The impugned Award of the Labour Court cannot, therefore, be sustained and is accordingly hereby set aside and the matter is remitted to the Labour Court to determine the relief to be granted to the workmen, in the context of Section 25F of the Act, including back wages, keeping in view their gainful employment, if any, during the relevant period. Both the writ petitions are consequently hereby accepted, in these terms, with costs. Counsel fee Rs. 500. (one set only).

R.N.R.

Before S. S. Sodhi, J.

THE STATE OF PUNJAB,—Appellant.

versus

PARAMJIT KAUR AND ANOTHER,—Respondents.

Civil Writ Petition No. 241 of 1988

18th September, 1990

Industrial Disputes Act, 1947—S. 33-C(2)—Right to 'Equal pay for equal work' is not a pre-existing right—Question cannot be gone into in proceedings under S. 33-C(2).

(1) 1989 Lab I.C. 1914.