

CASE NO.:  
Appeal (civil) 7458 of 2000

PETITIONER:  
AWAZ PRAKASHAN PRIVATE LIMITED

RESPONDENT:  
PRAMOD KUMAR PUJARI

DATE OF JUDGMENT: 02/04/2003

BENCH:  
K.G. BALAKRISHNAN & P. VENKATARAMA REDDI

JUDGMENT:  
JUDGMENT

2003 (3) SCR 347

The following Order of the Court was delivered.

The appellant challenges the Judgment of the Patna High Court in LPA No. 51 of 1999 (R). The appellant was running a printing press and was publishing a daily newspaper by name Awaz. The respondent was a Reporter of the newspaper at Ranchi. According to the appellant, he closed down the printing press and stopped the publication of the said newspaper and, therefore, the services of the respondent were not required and he was retrenched from service with effect from 1.7.89. The respondent contended that his retrenchment was effected without complying with the provisions contained in the Industrial Disputes Act, 1947 and he sought a reference under that Act. The appellant did not appear before the Labour Court to contest the proceedings. The Labour Court at Ranchi, in Ref. Case No. 12 of 1992, passed an award directing the appellant to reinstate the respondent with back wages. According to the appellant, he came to know of the award only on 28. 9. 1994 and thereafter he filed a writ petition before the Patna High Court. Learned Single Judge dismissed the Writ Petition mainly on the ground of delay. The appellants contention that the provisions contained in the I. D. Act had no application was rejected by the learned Single Judge. Aggrieved by the same, the appellant preferred an LPA and the Division Bench also found that the pleas raised by the appellant were not maintainable and the LPA was dismissed. Aggrieved by the same, the present appeal is filed.

We heard the appellant's Counsel. The main contention urged by the appellant's Counsel is that respondent was a working Journalist and, therefore, the award passed by the Labour Court under the provisions of the I. D. Act was without jurisdiction and that provisions contained in the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 are applicable in his case and the Board constituted under the provisions of the said Act alone had jurisdiction to deal with the question of retrenchment or removal of the newspaper employees or Working Journalists from service. The appellant's Counsel relied on Section 3 and section 11 of the Act which read as follows:-

"3. Act 14 of 1947 to apply to working journalists-

(1) The provisions of the Industrial Disputes Act, 1947, as in force for the time being, shall subject to the modification specified in sub-section (2), apply to, or in relation to working journalists as they apply to, or in relation to. workmen within the meaning of that Act.

(2) Section 25F of the aforesaid Act. in its application to working journalists, shall be construed as if in clause (a) thereof, for the period of notice referred to therein in relation to the retrenchment of a workman,

the following periods of notice in relation to the retrenchment of a working journalist had been substituted namely-

(a)six months, in the case of an editor, and (b)three months, in the case of any other working journalist. 11. Powers and procedure of the Board. -

(1) Subject to the provisions, contained in sub-section (2), the Board may exercise all or any of the powers which an Industrial Tribunal constituted under the Industrial Disputes Act, 1947, exercises for the adjudication of an industrial dispute referred to it and shall, subject to the provisions contained in this Act, and the rules, if any, made thereunder, have power to regulate its own procedure.

(2) Any representations made to the Board and any documents furnished to it by way of evidence shall be open to inspection on payment of such fee as may be prescribed by any person interested in the matter.

(3) If, for any reason, a vacancy occurs in the office of Chairman or any other member of the Board, the Central Government shall fill the vacancy by appointing another person thereto in accordance with the provisions of Section 9 and any proceeding may be continued before the Board so reconstituted from the stage at which the vacancy occurred. "(Emphasis supplied)

On a close perusal of the above provisions, it is clear that the contention raised by the appellant has no force. The Board constituted by the Central Government can decide only those disputes which are referred to the Board. Section 11 of the said Act further says that in case of any such reference, the Board may exercise all or any of the powers which are vested in industrial Tribunal constituted under the I. D. Act, 1947, and the rules framed thereunder. The provisions contained in the Act do not say that all disputes relating to Working Journalists shall be considered and decided by the Board. The Board constituted by the Central Government is mainly for considering the working conditions of the newspaper employees and also to fix rates of wages of working Journalists from time to time. The Board constituted under Section 11 is not a substitute for Labour Court. Under the Act the Board would consist of 10 persons-3 persons representing the employer, 3 persons representing the working employee and 4 other independent person, one of whom shall be a person who is or has been a Judge of a High Court and who shall be appointed by the Government as the Chairman thereof. The contention of the appellant that respondent being a Working Journalist, the present dispute relating to his retrenchment should have been referred to this Board has no force and it is only to be rejected.

Incidentally, it may be mentioned that the appellant did not raise any objection before the Labour court as to its jurisdiction to decide the dispute relating to the retrenchment of the respondent. The Reference Order was not challenged by the appellant by contending that the Labour Court had no jurisdiction to decide the question. The appellant challenged the award passed by the Labour Court belatedly and the appellant's Writ Petition has been rightly rejected by the High Court.

The Civil Appeal is without any merits and the same is dismissed. There will be no order as to costs.