

PETITIONER:
THE MANAGING DIRECTOR, HARYANA SEEDS DEVELOPMENT CORPN. LTD.

Vs.

RESPONDENT:
THE PRESIDING OFFICER & ANR.

DATE OF JUDGMENT: 07/07/1997

BENCH:
K. RAMASWAMY, D.P. WADHWA.

ACT:

HEADNOTE:

JUDGMENT:

WITH
CIVIL APPEAL NO 4610 OF 1997
(Arising out of SLP (C) No.9408 of 1997)
O R D E R

Leave granted.

These appeals by special leave arise from the orders of the Punjab & Haryana High Court, made on 23.8.1996 in CWP No. 12867/96 and 12866/96.

The admitted position is that the Haryana Seeds Development Corporation Ltd. has been carrying on the business of distribution of the certified varieties of the crop seeds to the farmers during Rabi and Kharif sowing seasons. As a consequence, a number of employees including the salesman like the respondents came to be appointed. It is also on record that due to heavy flood etc., a number of units including the seeds sales counter were closed. As a consequence, the services of the employees have been dispensed with. The respondent have sought a reference under Section 10(1)(c) of the Industrial Disputes Act, 1947 [for short, the "Act"]. The Labour Court held that the dispensation of the services of the respondents amounts to retrenchment within the meaning of Section 25-F of the Act. As a result without giving one month's notice or salary in lieu thereof, the retrenchment is bad in law. Accordingly, it passed the award which was affirmed by the High Court. Thus, appeals by special leave.

Section 25-FFF of the Act regulates the closure of the industry which envisages as under :-

"25-FFF. Compensation to workman is case of closing down of undertaking (1) where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of

Section 25-F, as if the workman had been retrenched;
Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer the compensation to be paid to the workman under clause (b) of Section 25-F shall not exceed his average pay for three months."

As a consequence of the closure of the industry, Section 25-F of the Act is not attracted and the rigour imposed thereunder stands excluded. That was the view taken by this Court. In other cases, that was also followed by another learned Single Judge of the High Court. In that view of the matter, the learned Single has committed grievous error of law in not admitting the writ petition.

The appeal are accordingly allowed. The order of the Labour Court stands set aside. No costs.

However, Shri K.B. Rohtagi, learned counsel appearing for the respondents in paragraph 5 of the counter-affidavit has stated that all other junior person whose services were dispensed with along with the respondents came to be appointed subsequently. If that be so, it would be open to the respondents to make representations to the Corporation and the Corporation would consider their representations. If any of the other junior persons were appointed, necessarily the respondents also are entitled for appointment afresh.