

PETITIONER:
SAKHKAR MILLS MAZDOOR SANGH

Vs.

RESPONDENT:
GWALIOR SUGAR CO. LTD.

DATE OF JUDGMENT 22/02/1985

BENCH:
REDDY, O. CHINNAPPA (J)
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REDDY, O. CHINNAPPA (J)
VENKATARAMIAH, E.S. (J)
MISRA, R.B. (J)

CITATION:
1985 AIR 758 1985 SCR (2) 958
1985 SCC (2) 134 1985 SCALE (1) 301
CITATOR INFO :
RF 1986 SC 458 (3)

ACT:
The Payment of Bonus Act 1965, sections 10 and 13
seasonal' employees- Whether entitled to payment of minimum
bonus.

Words and Phrases:
'Working days in any accounting year' - Meaning of-
Section 13 Payment of Bonus Act 1965.

HEADNOTE:

The first respondent. a Company engaged in the
manufacture of Sugar, employed workers both on a permanent
basis as well as on a seasonal basis.

The employer refused to pay bonus to the seasonal
employees on the ground that they were not employed
throughout the year, and the consequential dispute that
arose between the management and the appellant-union was
referred to the Industrial Court under section 49 of the
Madhya Pradesh Industrial Relations Act.

The Industrial Court decided in favour of the workers
and held that they were entitled to payment of the minimum
bonus.

The Writ Petition filed by the company was allowed
and the award of the Industrial Court was quashed. The High
Court interpreted the words "working days in any accounting
year" in section 13 of the Payment of Bonus Act 1965 as
meaning all those days of the year except holidays, and held
that the workers were only entitled to proportionate bonus
and not the minimum bonus guaranteed under section 10 of the
Act.

Allowing the Appeal of the Union to this Court,

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HELD: 1. In the case of a factory which works
seasonally during an accounting year, working days in any
accounting year" can only mean those days of the year during
which the employee concerned is actually allowed to work.
Having regard to the scheme and purpose of the Payment of
Bonus Act 1965, the High Court was not justified in placing
a different

construction on the meaning of the expression "working days in any A accounting year". [960H; 961A]

2. The judgment of the High Court is set aside and the award of the Industrial Court is restored. The bonus payable to the employees will carry interest at nine per cent per annum, from the date bonus became due until date of payment. [961B]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 338 of 1972.

From the Judgment and Order dated the 30th January, 1970 of the Madhya Pradesh High Court in Miscellaneous Petition No. 437 of 1967.

R. K. Jain, Pramod Dayal, A. D. Sangar and Ajay K. Jain for the appellant.

B. Datta. Rishi Kesh, B. P. Singh and Ajit Puddiserry for the respondent.

H. R. Puri and C. L. Sahu for the interveners.

The Judgment of the Court was delivered by

CHINNAPPA REDDY, J. The first respondent is a company engaged in the manufacture of sugar and employing over 1100 workers, 300 of them on a permanent basis and 800 on a seasonal basis. The permanent employees are those employed on the clerical side and in the operation and maintenance of machines. The other 800 employees are seasonal employees who are so employed because the factory itself does not work through out the year but works during a certain season every year from December when the sugarcane crop is ready for crushing until the crushing is over. The employer refused to pay bonus to the seasonal employees during the year 1964-65 on the ground that they were not employed through out the year. A dispute arose between the management and the Mazdoor Sangh which was referred to the Industrial Court Madhya Pradesh, Indore for arbitration under sec. 49 of the Madhya Pradesh Industrial Relations Act. The Industrial Court decided in favour of the workers, but on a writ petition filed by the company, the award of the arbitrator was quashed and it was held that the workers were only entitled to proportionate bonus and not the minimum bonus

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guaranteed by sec. 10 of the Payment of Bonus Act, 1965. This appeal has been filed by the Mazdoor Sangh under a certificate granted by the High Court of Madhya Pradesh.

To our minds the question is a simple one and is capable of only one answer. Sections 10 and 13 of the Payment of Bonus Act, as they stood at the relevant time, were as follows:

"Section 10. PAYMENT OF MINIMUM BONUS- Subject to the provisions of ss 8 and 13 every employer shall be bound to pay to every employee in an accounting year a minimum bonus which shall be four per cent of the salary or wage earned by the employee during the accounting year or forty rupees, whichever is higher, whether there are profits in the accounting year or not:

Provided that where such employee has not completed fifteen years of age at the beginning of the accounting year, the provisions of this section shall have effect in relation to such employee as if for the words 'forty rupees', the words 'twenty five rupees' were substituted."

"Section 13-PROPORTIONATE REDUCTION OF BONUS IN

CERTAIN CASES-Where an employee has not worked for all the working days in any accounting year, the minimum bonus of forty rupees or, as the case may be, of twenty five rupees, per cent, of his salary or wage for the days he has worked in that accounting year shall be proportionately reduced."

The High Court has interpreted the words "working days in any accounting year" as meaning all those days of the year except holidays. While such an interpretation may be alright in the case of a factory which works all through the year, it would be hardly appropriate in the case of a factory which works during a particular season every year. In the case of a factory which works seasonally during an accounting year, 'working days in any accounting year' can only mean those days of the year during which the employee concerned is actually allowed to work. That was the interpretation which was placed upon the expression by the Industrial Court and

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we think it is the proper interpretation. Having regard to the scheme and the purpose of the Act, we (30 not think that the High Court was justified in placing a different construction on the meaning of the expression "working days in any accounting year". We, therefore, set aside the judgment of the High Court and restore the award of the Industrial Court. The bonus payable to the employees will carry interest at the rate of nine per cent per annum. from the day when the bonus became due until the date of payment. The. appeal is allowed with costs.

N.V.K

Appeal allowed.

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