

ANIL BAPURAO KANASE  
v.  
KRISHNA SAHAKARI SAKHAR KARKHANA LTD.  
AND ANR.

MAY 7, 1997

[K. RAMASWAMY, S. SAGHIR AHMAD  
AND G.B. PATTANAIK, JJ.]

*Labour Law*

*Industrial Disputes Act, 1947 :*

*Ss.25-F and 2(oo)(bb)—Sugar factory—Seasonal worker—Disengagement after the season is over—Held, is not retrenchment—However, Management should maintain a register of such employees—When the season starts in the succeeding year, the workmen should be engaged according to the seniority and, until all such workmen are engaged, Management should not recruit new workmen.*

*Morinda Coop. Sugar Mills Ltd. v. Ram Kishan & Ors., [1995] 5 SCC 653, relied on.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3692 of 1997.

From the Judgment and Order dated 28.3.95 of the Bombay High Court in W.P. No. 488 of 1994.

Nikhil M. Sakhardande and Nandini Gore for the appellant.

The following Order of the Court was delivered :

Leave granted.

The appellant-employee was engaged in the seasonal work in the Chemistry Section of the sugar factory by the respondent No. 1. Since the work was over, the services of the appellant and others were terminated. He sought a reference under the Industrial Disputes Act, 1947 (for short, 'the Act') contending that the termination being in the nature of retrench-

A ment is in violation of Section 25-F of the Industrial Disputes Act. The Industrial Tribunal and the High Court negated the contention.

B Learned counsel for the appellant contends that the judgment of the High Court of Bombay relied on in the impugned order dated March 28, 1995 in Writ Petition No. 488 of 1994 is perhaps not applicable. Since the appellant has worked for more than 180 days, he is to be treated as retrenched employee and if the procedure contemplated under Section 25-F of the Industrial Disputes Act, 1947 is applied to, his retrenchment is illegal. We find no force in this contention. In *Morinda Co-op. Sugar Mills Ltd. v. Ram Kishan & Ors.*, [1995] 5 SCC 653 in paragraph-3, this Court has dealt with engagement of the seasonal workman in sugarcane crushing; in paragraph 4, it is stated that it was not a case of retrenchment of the workman, but of closure of the factory after crushing season was over. Accordingly, in paragraph 5, it was held that it is not 'retrenchment' within the meaning of Section 2(oo) of the Act. As a consequence the appellant is not entitled to retrenchment as per clause (bb) of Section 2(oo) of the Act. Since the present work is seasonal business, the principles of the Act have no application. However, this Court has directed that the respondent-management should maintain a register and engage the workmen when the season starts in the succeeding years in the order of seniority. Until all the employees whose names appear in the list are engaged in addition to the employees who are already working, the management should not go in for fresh engagement of new workmen. It would be incumbent upon the respondent management to adopt such procedure as is enumerated above.

The appeal is accordingly dismissed. No costs.

R.P.

Appeal dismissed.