

THE MANAGING DIRECTOR HARYANA SEEDS
DEVELOPMENT CORPN. LTD.

A

v.

THE PRESIDING OFFICER AND ANR. ETC.

JULY 7, 1997

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[K. RAMASWAMY AND D.P. WADHWA, JJ.]

Labour Laws:

Industrial Disputes Act, 1947:

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S. 25-F—Retrenchment compensation—Non-payment on the ground of closure of the industry—Labour Court passing an award that the retrenchment was bad in law—High Court affirming the award—On appeal held, as a consequence of closure of industry, S. 25-F not attracted and the rigour imposed thereunder stands excluded—Hence the award of Labour Court set aside—If juniors retrenched had been appointed subsequently, respondent—workmen also entitled, for appointment afresh.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4609 of 1997 etc.

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From the Judgment and Order dated 23.8.96 of the Punjab & Haryana High Court in C.W.P. No. 12867 of 1996.

Ashok K. Patharia, Rajesh K. Sharma, Shalu Sharma and Goodwill Indeevar for the Appellant.

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K.B. Rohtagi and Ms. Aparna Rohtagi for the Respondents.

The following Order of the Court was delivered :

Leave granted.

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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

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A 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 respondents have sought a reference under Section 10(1)(c) of the Industrial Disputes Act, 1947 [for short, the "Act"].

B 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, these appeals by special leave.

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

D *"25-FFF. Compensation to workman in 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;*

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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."

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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 Judge has committed grievous error of law in not admitting the writ petition.

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

H However, Shri K.B. Rohtagi, learned counsel appearing for the

respondents in paragraph 5 of the counter-affidavit has stated that all other junior persons 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.

G.N.

Appeals allowed.