* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 06th FEBRUARY, 2026

IN THE MATTER OF:

\+ **LPA 353/2022**

RAJ KUMAR RASTOGI .....Appellant

Through: Mr. Jawahar Raja, Mr. Ishaan Goel, Ms. Meghna De and Mr. Nitai Hindua, Advs.

versus

DELHI PRESS LTD. .....Respondents

Through: Ms. Meghna Mital, Ms. Vanita, Advs.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

SUBRAMONIUM PRASAD J.

1. The present Appeal has been filed by the Appellant challenging the Judgment and Order dated 18.05.2015, passed by the learned Single Judge in W.P. (C) NO. 4815/2001 ["**Impugned Judgment**"].

2. By way of the Impugned Judgment, the learned Single Judge dismissed the writ petition filed by the Appellant, to uphold the Award dated 23.04.2001 passed by the Labor Court in I.D NO.1443/95 (Old I.D. No. 95/87.

3. The Labor Court as well as the learned Single Judge were of the opinion that the Appellant is not a workman within the meaning of Section 2(s) of Industrial Disputes Act, ["**ID Act**"].

4. The facts, in brief as presented by the Appellant in the present appeal, are as follows:

a. The Appellant was appointed by the Respondent-Management as a 'Full-time Grainer' *vide* Appointment Letter dated 01.06.1983 ["**Appointment Letter**"]. Though he was appointed as a 'Full time Grainer', the Appointment Letter mentions that he was selected as a 'trainee'.

b. The Appointment Letter stipulates that the training period may last up to one year, however, the training period was extended from 31.05.1984 to 31.05.1985, from 31.05.1985 to 31.05.1986 and lastly, from 31.05.1986 to 31.05.1987. It is, therefore, the case of the Appellant that he worked for more than three years and was still called a 'trainee'.

c. The Appointment Letter also indicated that he was getting a stipend of Rs. 400/- and the period of training could be extended from time to time. The said Appointment Letter also stipulated that in case he would remain absent from his training without giving prior intimation, it would be deemed that he was voluntarily abandoning his training.

d. The Appellant could not report for work from 11.06.1986 to 17.06.1986 due to ill-health. However, when he wanted to re-join thereafter, he was not allowed to do so by the Respondent-Management and was instead asked to re-visit after three-four days. However, despite the directions, the Appellant was still not permitted to join his duties. As such, it is the case of the

Appellant that his services were illegally terminated by the Respondent-Management on 18.06.1986.

e. The Appellant sent a Demand Notice dated 02.07.1986 along with a copy of the Medical Certificate dated 17.06.1986, stating that the action of the Respondent-Management of disallowing the Appellant from resuming duties was arbitrary, illegal and amounted to unfair labor practice.

f. Since the Respondent-Management did not reply to the Appellant's Demand Notice dated 02.07.1986, the Appellant was constrained to raise an industrial dispute, which was referred to the Labor Court, with the term of reference being as follows:

> "*Whether the termination of services of Sh. Raj Kumar Rastogi is illegal and/or unjustified and if so, to what relief is he entitled and what directions are necessary in this respect?"*

g. The Labor Court *vide* Award dated 23.04.2001, after hearing the parties and perusing the evidence, was of the opinion that the Appointment Letter on which the Appellant placed reliance shows that he was only working as a 'Trainee Grainer' and that there was nothing on record to depict that the Appellant was a workman within the meaning of Section 2(s) of the ID Act. In this regard, the Labor Court placed reliance on the judgment passed by a learned Single Judge of this Court in Kamal Kumar v. Presiding Officer, Labour Court & Others, **1998 (4) LLN 585**, which held that a 'Trainee' is not a 'Workman'.

h. The above judgment passed by the Labor Court was the subject matter of W.P. (C) NO. 4815/2001 filed by the Appellant, wherein it was contended before the learned Single Judge that the Appellant was a full time Grainer for the Respondent-Management for more than three years, without remaining absent from his duties. It was also contended that the mere fact that in the Appointment Letter it was mentioned that the Appellant is a 'Trainee', is of no consequence because he was working for more than three years. It was argued that the definition of a 'workman' in Section 2(s) of the ID Act covers an apprentice as well.

i. It was further argued before the learned Single Judge that the Appellant herein was getting a dearness allowance from the Respondent-Management, which shows that he was working as a 'Workman' only as a regular worker has a right to get dearness allowance.

j. It was also contended by the Appellant that it was obligatory on for the Labor Court to examine the nature of the work done by the Appellant to analyse whether the Appellant was indeed a 'Trainee' or working as a full-time Grainer.

k. It was further argued by the Appellant before the learned Single Judge that the Labor Court without there being any material on record and only on the basis of the said Appointment Letter came to a conclusion that the Appellant is a 'Trainee' and not a workman.

5. After hearing both the parties and going through the material on record, the learned Single Judge observed that the training period of the Appellant was being periodically extended from his date of appointment till 31.05.1987 and he was being given a stipend of Rs. 400/- per month.

6. The learned Single Judge was of the opinion that the Appellant was not getting any wages but was only getting a stipend. Further, while dealing with the issue of dearness allowance which was raised before the Writ Court for the first time, the learned Single Judge was of the opinion that though certain copies of receipt of dearness allowance were placed on record along with the writ petition, perusal of these receipts would indicate that they do not relate to the payment of the dearness allowance, but were actually deductions and deposits of Employee Provident Fund ["**EPF**"]. As such, the learned Single Judge opined that deduction of EPF is a statutory deduction and the Appellant cannot take any advantage of such deductions, and therefore, this standalone document would not lead to a conclusion that the Appellant was a 'Workman'.

7. The learned Single Judge further observed that the Labor Court only after considering the entire material on record has returned the finding that the Appellant was not a 'Workman'.

8. After perusing the evidence placed by the Appellant, the learned Single Judge concluded that the Appellant failed to produce any evidence in support of his contention that at the time when he was appointed by the Respondent, he was in possession of any experience certificate(s) from his earlier employment. The learned Single Judge also made a very pertinent observation that no suggestion was put to the witness of the Respondent-

Management as to whether the Appellant furnished any such certificate at the time of his appointment.

9. Learned Single Judge further took note of the fact that the Appellant was only a 'Trainee' and his services were being extended from time to time on the same terms and conditions contained in the Appointment Letter, however, Appellant never raised any objection regarding him being shown as a 'Trainee' and continued to work for the Respondent on the very same terms and conditions as mentioned in the Appointment Letter. Thus, the learned Single Judge was of the opinion that if the Appellant was indeed a full-time worker and not a 'Trainee', nothing precluded him from raising any objection during his tenure. In this way, the learned Single Judge concluded that the Appellant failed to discharge his initial burden to show that he was working or doing any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, which could only be proved by producing evidence.

10. It is this Order of the learned Single Judge which is under challenge in the present Appeal.

11. Learned Counsel appearing for the Appellant, while challenging the Impugned Judgment has submitted as under:

(i) The Appointment Letter describing the Appellant as a 'trainee' or 'in training' is not conclusive of the fact that the Appellant is a 'trainee' or was being given 'training'. He states that the designation of the employee is not important; what is important is the "nature of duties" being performed by him/her.

(ii) He states that the Appointment Letter actually amounts to unfair trade practice and it is a calculated attempt by the Respondent-

Management to take the Appellant out of the designation of the workman to cause him undue detriment.

(iii) He states that the Appointment Letter is a standard form letter of appointment and the Appellant had no role whatsoever in finalizing/negotiating the terms and conditions stipulated therein.

(iv) He further states that no material has been placed on record by the Respondent-Management to show as to under whose supervision the Appellant was training, the process of evaluation of the training and as to who would determine that the training has concluded. He states that without these questions being answered, the Labor Court as well as the learned Single Judge have erred in coming to the conclusion that Appellant was only a Trainee and not a workman. He states that such an interpretation would go against the very object of the ID Act and if accepted, then every employer would avoid Section 25F, G and H of the ID Act as the letter of appointment will describe the workman as a Trainee, permitting the employer to terminate the employee without giving them the benefit of the ID Act, thereby making the ID Act a dead letter.

(v) Learned Counsel for the Appellant further states that the interpretative exercise undertaken by the Labor Court as well as the learned Single Judge violates the prohibition of unfair labor practice.

(vi) He states that the Appointment Letter's designation of the Appellant as a 'trainee' was a sham and ruse to avoid the rigors of the ID Act.

(vii) He further submits that the Respondent-Management's pleadings before the Labor Court as well as the learned Single Judge indicate that the termination was punitive in nature as Respondent-Management claimed 'absenteeism' as the reason for termination. He states that if the nature of the termination was punitive, the Respondent ought to have conducted an inquiry and that the Respondent cannot take away the necessity of an inquiry by labeling the Appellant as a Trainee.

(viii) He places reliance on a number of judgments of the Apex Court including the Judgment in Management of Utkal Machinery Ltd v. Workman, Santi Patnaik, **1965 SCC OnLine SC 58,** & Trambak Rubber Industries Ltd. v. Nashik Workers Union and Others, **(2003) 6 SCC 416**.

12. Despite service of notice, since there was no appearance on behalf of the Respondent-Management, this Court requested Ms. Meghna Mital, learned Counsel, to assist this Court as an *Amicus Curiae* and advance submissions on behalf of the Respondent.

13. Ms. Meghna Mital, learned *Amicus Curiae*, supports the judgment of the Labor Court as well as the Judgment passed by the learned Single Judge. She contends that the Appellant failed to discharg his initial burden to show that he was not a trainee but a workman. She has drawn the attention of this Court to Annexure – A in the Lower Court Record to substantiate her contention that the Appellant was consistently absent in year 1985. She,

therefore, states that the Appellant himself abandoned his training and in this background, the case made out by the Appellant that he was prevented from working by the Respondent-Management, cannot be accepted. She therefore submits that the findings of the Labor Court as well as the learned Single Judge are that the Appellant was working only in the capacity of a Trainee and not a workman and, therefore, he cannot be governed by the Definition of workman under Section 2(s) of the IDA.

14. Heard the learned Counsel for the Appellant, learned *Amicus Curiae* for the Respondent and perused the material on record.

15. At the outset, this Court is of the opinion that the present LPA is not maintainable. This is because the Order assailed before the learned Single Judge is one passed by a Labor Court against which no appeal is maintainable under the ID Act. The Petition which was filed by the Appellant before the learned Single Judge was, therefore, under Article 226 of the Constitution of India, under the supervisory jurisdiction exercised by the learned Single Judge and, therefore, only a Special Leave Petition would lie against the Impugned Judgment passed by the learned Single Judge, and not an LPA. Be that as it may, since more than three years have passed after the filing of the present LPA and this ground of maintainability has not been raised by either party, this Court shall consider the present Appeal on merits.

16. On going through the entire material on record, this Court observes that the Labor Court as well as the learned Single Judge, after meticulously scanning the entire evidence, arrived at a conclusion that the Appellant has not been able to establish that he is not a Trainee, but a workman within the scope of the ID Act.

17. The Appellant's case in his Writ Petition was that he was appointed as a full-time grainer by the Respondent-Management and the Appellant has stated so in his examination-in-chief as well. *Per contra,* the Respondent's stand was that the Appellant was only a trainee, whose training was extended from time to time. It was, therefore, the Appellant who had to prove the material and present witnesses to show that he was not a trainee or that he was not under the supervision or guidance of any person, but was working as a full-time grainer. In fact, the learned Single Judge noted this aspect and observed that the Appellant herein has not even put a suggestion to the Respondent's witness before the Labor Court to prove that he was working as a full-time grainer and not as a trainee.

18. When two Courts have appreciated the evidence placed before them and arrived to the conclusion that the Appellant is not a workman, this Court, which is the third court, under an LPA, cannot come to a different conclusion simply because it may be a plausible one. It cannot be said that the appreciation of evidence by the learned Single Judge or by the Labor Court is so perverse that no court would have come to that conclusion.

19. What is more interesting is that in his cross-examination, the Appellant has himself admitted that he did not return to work after 09.06.1986. The Courts below have, therefore, rightly accepted the contention of the Respondent, that it is a case of abandonment of training, which is a ground for termination as per the Appointment Letter.

20. There is nothing on record to show that the Appellant completed his training and was subsequently employed as a full-time grainer. Without there being any material on record to show that the Appellant performed any skilled, unskilled, manual, technical or operational duties and was working

as a full-time grainer, this Court cannot accept the case as put forth by the learned Counsel for the Appellant. In fact, no suggestion was put to the witness to prove that the Appellant was working as a full-time grainer and not as a trainee.

21. Though an attempt has been made by the learned Counsel for the Appellant to further enter into the thicket of facts, this Court does not deem it appropriate or even necessary to do so, in light of the in-depth analysis done by the learned Single Judge as well as the Labor Court.

22. Another contention raised by the learned Counsel for the Appellant is that the Appellant is an apprentice and, therefore, he would be included in the definition of a workman under Section 2(s) of the ID Act. A perusal of the Appointment Letter shows that the Appellant was appointed as a Trainee, and the word "apprentice" is mentioned only in the last paragraph therein, which by itself would not make the Appellant an apprentice. In any event, Section 18 of the Apprentices Act, 1961 states that apprentices are trainees and not workman, and the provisions of any law in respect of labor shall not apply in relation to the apprentices.

23. The Apex Court in ESI Corpn. v. TELCO, **(1975) 2 SCC 835**, has described the import of "apprenticeship," while observing as under:

> "***6***. *The heart of the matter in apprenticeship is, therefore, the dominant object and intent to impart on the part of the employer and to accept on the part of the other person learning under certain agreed terms. That certain payment is made during the apprenticeship, by whatever name called, and that the apprentice has to be under certain rules of discipline do not convert the apprentice to a regular employee under the employer. Such a person remains a learner and is not an employee. An examination of the*

> *provisions of the entire agreement leads us to the conclusion that the principal object with which the parties enter into an agreement of apprenticeship was offering by the employer an opportunity to learn the trade or craft and the other person to acquire such theoretical or practical knowledge that may be obtained in the course of the training. This is the primary feature that is obvious in the agreement."*

24. Further, the Apex Court in National Small Industries Corpn. Ltd. v. V. Lakshminarayanan, **(2007) 1 SCC 214**, has observed as under, in the context of Section 18 of the Apprentices Act, 1961:

> "*19. From the above, it will be seen that on the one hand while an apprentice is also treated to be a workman for the purposes of the 1947 Act, by virtue of Section 18 of the 1961 Act, it has been categorically provided that apprentices are not workers and the provisions of any law with respect to labour shall not apply to or in relation to such apprentice."*

25. In National Small Industries Corpn. Ltd. (supra), the Apex Court, while setting aside the judgment of the Labor Court as well as the judgment passed by the High Court, wherein the learned Single Judge accepted that just because a person is an apprentice he would fall under the category of workman, has observed as under:

> "***23***. *From the aforesaid documents it would be evident that even if the respondent had been working on a daily-wage basis prior to his appointment as apprentice trainee (shop assistant), at least from 3-5-1990 till 2-5-1992, he was working as an apprentice on a consolidated salary and the respondent himself was conscious of such fact since he had requested the Corporation and its authorities to absorb his services on a permanent basis purportedly on the basis of a*

promise held out at the time when he was interviewed for appointment to the post of apprentice trainee (shop assistant). Other than the assertion made on behalf of the respondent that the appellant had agreed to absorb the respondent in Group D category as peon/shop assistant after completion of apprenticeship and the recommendation said to have been made by the General Manager indicating that the respondent could be appointed and taken as a permanent worker, there is no other material on record to support the case made out by the respondent.

***24**. In the absence of any such material, it is difficult to understand the reasoning of the Labour Court that the respondent was not an "apprentice trainee" but a "workman" who was made to perform a full-time job under the guise of an apprentice trainee. The High Court appears to have been impressed by the reasoning of the Labour Court with regard to the finding that although designated as an apprentice, the respondent was not undergoing training, but was an employee doing full-time work in the establishment. Such a view, in our judgment, is not supported by the materials on record and is completely contrary to the appointment letter issued to the respondent on 26-4-1990 and the respondent's own letter dated 29-4-1992, in admission of such fact. Had such a letter of appointment not been available, the Labour Court and/or the High Court could justifiably have embarked on an exercise as to whether the respondent was in effect a "trainee" under the Apprentices Act, 1961, or a "workman" within the meaning of Section 2(s) of the 1947 Act. There is nothing on record to indicate that the respondent's services had ever been regularised or that he was brought on the rolls of the permanent establishment."*

26. Applying the Apex Court's ratio in National Small Industries Corpn. Ltd. (supra) to the facts of the present case would show that a stray use of

the word "apprentice" at one point in the Appointment Letter alone would not make any difference, nor would it bring the Appellant within the four corners of Section 2(s) of ID Act. In any event, the Appellant has not produced any evidence regarding the nature of his duties so as to establish that he was working as a full-time grainer and not as a trainee and has performed any skilled, unskilled, manual, technical or operational duties.

27. This Court also recalls the Judgment of the Apex Court in Mukesh K. Tripathi v. LIC, **(2004) 8 SCC 387,** which dealt with a case as to whether Appellant therein, who was appointed as an Apprentice Development Officer, on completion of apprenticeship, could be appointed and treated as a Development Officer. The Apex Court observed as under:

> "***19***. *The Constitution Bench although noticed the distinct cleavage of opinion in two lines of cases but held: (SCC p. 752, para 24)*
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> > *"These decisions are also based on the facts found in those cases. They have, therefore, to be confined to those facts. Hence the position in law as it obtains today is that a person to be a workman under the ID Act must be employed to do the work of any of the categories viz. manual, unskilled, skilled, technical, operational, clerical or supervisory. It is not enough that he is not covered by either of the four exceptions to the definition. We reiterate the said interpretation."*
> >
> > *(emphasis supplied)*
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> *****
>
> ***22***. *The Constitution Bench further took notice of the subsequent amendment in the definition of "workman" and held that even the legislature impliedly did not accept the said interpretation of this Court in S.K.*

Verma [(1983) 4 SCC 214 : 1983 SCC (L&S) 510 : (1983) 3 SCR 799] and other decisions.

***23**. It may be true, as has been submitted by Ms Jaising, that S.K. Verma [(1983) 4 SCC 214 : 1983 SCC (L&S) 510 : (1983) 3 SCR 799] has not been expressly overruled in H.R. Adyanthaya [(1994) 5 SCC 737 : 1994 SCC (L&S) 1283] but once the said decision has been held to have been rendered per incuriam it cannot be said to have laid down a good law. This Court is bound by the decision of the Constitution Bench.*

***24**. **From a perusal of the award dated 28-5-1996 of the Tribunal, it does not appear that the appellant herein had adduced any evidence whatsoever as regards the nature of his duties so as to establish that he had performed any skilled, unskilled, manual, technical or operational duties.** The offer of appointment dated 16-7-1987 read with the Scheme clearly proved that he was appointed as an apprentice and not to do any skilled, unskilled, manual, technical or operational job. **The onus was on the appellant to prove that he is a workman. He failed to prove the same.** Furthermore, the duties and obligations of a Development Officer of the Corporation by no stretch of imagination can be held to be performed by an Apprentice.*

***25**. Even assuming that the duties and obligations of a Development Officer, as noticed in paragraph 8 of S.K. Verma [(1983) 4 SCC 214 : 1983 SCC (L&S) 510 : (1983) 3 SCR 799] are applicable in the instant case, it would be evident that the appellant herein could not have organised or developed the business of the Corporation without becoming a full-fledged officer of the Corporation. Only an officer of the Corporation duly appointed can perform the functions of recruiting*

agents and take steps for organising and developing the business of the Corporation. No area furthermore could be allotted to him for the purpose of recruiting active and reliable agents drawn from different communities and walks of life in view of the categorical findings of the Tribunal that he had been working as an apprentice. If organising and developing the business of the Corporation and to act as a friend, philosopher and guide of the agents working within his jurisdiction were the primary duties and obligations of a Development Officer, an apprentice evidently cannot perform the same.

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***30**. "Apprentice", as noticed hereinbefore, is defined to mean a person who is undergoing apprenticeship training pursuant to a contract of apprenticeship. How a contract of apprenticeship would be entered into is to be found in sub-section (1) of Section 4 of the 1961 Act. The embargoes placed in this regard are: (i) entering into a contract of apprenticeship with a minor in which event the contract must be executed by his guardian; and (ii) on such terms or conditions which shall not be inconsistent with any provision of the Act or any rule framed thereunder.*

***31**. Furthermore, the apprentice must satisfy the statutory requirements as regards qualification to be appointed as an apprentice.*

***32**. Training of apprenticeship by reason of sub-section (2) of Section 4 shall be deemed to have commenced on the date on which the contract of apprenticeship has been entered into under sub-section (1) thereof.*

***33**. The provisions of the Scheme framed by the Corporation conform to the provisions of the Apprentices Act and Rules framed thereunder. It is*

worth noticing that provident funds and insurance have been specified to be a "designated trade" within the meaning of Section 2(k) of the Apprentices Act, 1961 by Notification No. GSR 463(E) dated 23-8-1975.

***34**. The definition of "workman" as contained in Section 2(s) of the Industrial Disputes Act, 1947 includes an apprentice, but a "workman" defined under the Industrial Disputes Act, 1947 must conform to the requirements laid down therein meaning thereby, inter alia, that he must be working in one or the other capacities mentioned therein and not otherwise.*

***35**. We may further notice that before the Tribunal a contention was raised by the appellant that upon expiry of the period of one year he was appointed as a probationary officer but the said plea was categorically rejected by the Tribunal holding:*

> *"7. The workman concerned has also pleaded that after expiry of one year he was appointed as Probationary Development Officer. No date of issuance of such order has been filed. In its absence the version of the workman concerned is disbelieved and it is held that the workman concerned after expiry of apprenticeship was not appointed as Probationary Development Officer. Instead he continued to work as apprentice."*

***36**. A "workman" within the meaning of Section 2(s) of the Industrial Disputes Act, 1947 must not only establish that he is not covered by the provisions of the Apprentices Act but must further establish that he is employed in the establishment for the purpose of doing any work contemplated in the definition. Even in a case where a period of apprenticeship is extended, a further written contract carrying out such intention need not be executed. But in a case where a person is allowed to*

continue without extending the period of apprenticeship either expressly or by necessary implication and regular work is taken from him, he may become a workman. A person who claims himself to be an apprentice has certain rights and obligations under the statute.

37. In case any person raises a contention that his status has been changed from apprentice to a workman, he must plead and prove the requisite facts. In absence of any pleading or proof that either by novation of the contract or by reason of the conduct of the parties, such a change has been brought about, an apprentice cannot be held to be a workman.

38. *It is true that the definition of "workman" as contained in Section 2(s) of the Industrial Disputes Act is exhaustive.*

39. *The interpretation clause contained in a statute although may deserve a broader meaning having employed the word "includes" [Ed.: Section 2(s) of the Industrial Disputes Act, 1947 reads as follows, 'workman' means any person (including an apprentice) …".] but therefor also it is necessary to keep in view the scheme of the object and purport of the statute which takes him out of the said definition. Furthermore, the interpretation section [Ed.: Section 2 of the Apprentices Act, 1961.] begins with the words "unless the context otherwise requires" [Ed.: Section 2 of the Industrial Disputes Act, 1947 begins with the words, "unless there is anything repugnant in the subject or context …".] .*

40. *In Ramesh Mehta v. Sanwal Chand Singhvi [(2004) 5 SCC 409] it was noticed: (SCC p. 426, paras 27-28)*

"27. A definition is not to be read in isolation. It must be read in the context of the phrase which would define it. It should not be vague or ambiguous. The definition of words must be given a meaningful application; where the context makes the definition given in the interpretation clause inapplicable, the same meaning cannot be assigned.

28. In State of Maharashtra v. Indian Medical Assn. [(2002) 1 SCC 589] one of us (V.N. Khare, C.J.) stated that the definition given in the interpretation clause having regard to the contents would not be applicable. It was stated: (SCC p. 598, para 8)

'8. A bare perusal of Section 2 of the Act shows that it starts with the words "in this Act, unless the context otherwise requires ...". Let us find out whether in the context of the provisions of Section 64 of the Act the defined meaning of the expression "management" can be assigned to the word "management" in Section 64 of the Act. In para 3 of the Regulation, the Essentiality Certificate is required to be given by the State Government and permission to establish a new medical college is to be given by the State Government under Section 64 of the Act. If we give the defined meaning to the expression "management" occurring in Section 64 of the Act, it would mean the State Government is required to apply to itself for grant of permission to set up a government medical college through the University. Similarly it would also mean the State Government applying to itself for grant of Essentiality Certificate under para 3 of the Regulation. We are afraid the defined meaning of the expression "management" cannot be assigned

to the expression "management" occurring in Section 64 of the Act. In the present case, the context does not permit or requires to apply the defined meaning to the word "management" occurring in Section 64 of the Act.'"

41. *In Chittaranjan Das v. Durgapore Project Ltd. [(1995) 2 Cal LJ 388] it was opined: (Cal LJ p. 398, para 40)*

"40. In my opinion, it is not difficult to resolve the apparent conflict. Both in the Industrial Employment (Standing Orders) Act, 1946 as also the certified Standing Order of the company the words 'including an apprentice' occur after the word 'person'. In that view of the matter in place of the word 'person', the word 'apprentice' can be substituted in a given situation but for the purpose of becoming a workman either within the meaning of the 1946 Act or the Standing Order framed thereunder, he is required to fulfil the other conditions laid down therein meaning thereby he is required to be employed in an industry to do the works enumerated in the said definition for hire or reward, whether the terms of employment be express or implied."

42. *The question as to who would answer the description of the term "workman" fell for consideration before this Court in Dharangadhra Chemical Works Ltd. v. State of Saurashtra [AIR 1957 SC 264 : 1957 SCR 152] wherein this Court held: (SCR p. 157)*

"The essential condition of a person being a workman within the terms of this definition is that he should be employed to do the work in that industry, that there should be, in other words, an

employment of him by the employer and that there should be the relationship between the employer and him as between employer and employee or master and servant. Unless a person is thus employed there can be no question of his being a workman within the definition of the term as contained in the Act." (emphasis in original)

***43**. Yet again in Workmen v. Dimakuchi Tea Estate [AIR 1958 SC 353 : 1958 SCR 1156] this Court held: (SCR p. 1163)*

"A little careful consideration will show, however, that the expression 'any person' occurring in the third part of the definition clause cannot mean anybody and everybody in this wide world. First of all, the subject-matter of dispute must relate to (i) employment or non-employment or (ii) terms of employment or conditions of labour of any person; these necessarily import a limitation in the sense that a person in respect of whom the employer-employee relation never existed or can never possibly exist cannot be the subject-matter of a dispute between employers and workmen. Secondly, the definition clause must be read in the context of the subject-matter and scheme of the Act, and consistently with the objects and other provisions of the Act. It is well settled that 'the words of a statute, when there is a doubt about their meaning are to be understood in the sense in which they best harmonise with the subject of the enactment and the object which the legislature has in view. Their meaning is found not so much in a strictly grammatical or etymological propriety of language, nor even in its popular use, as in the subject or in the occasion on which they are used, and the object to be attained.' (Maxwell:

Interpretation of Statutes, 9th Edn., p. 55.)" (emphasis in original)"

[Emphasis Supplied]

28. This Court also deems it appropriate to address the reliance placed by the learned Counsel for the Appellant on the Judgment of the Apex Court in Trambak Rubber Industries (supra). Specifically, the learned Counsel for the Appellant has placed emphasis on the following observation of the Apex Court:

> *"8. We are of the view that the High Court has not transgressed the limitations inherent in the grant of the writ of certiorari. The High Court had rightly perceived the patent illegality in the impugned award warranting interference in exercise of its writ jurisdiction. The High Court is right in pointing out that the material evidence, especially the admissions of the witness examined on behalf of the management were not considered at all. Moreover, the conclusions reached are wholly perverse and do not reasonably follow from the evidence on record. For instance, the fact that no appointment letters were issued or filed does not possibly lead to the conclusion that the management's version must be true. Similarly, if the Workers' Unions had taken the stand that antedated appointment letters were issued describing the employees as trainees after the dispute had arisen, it is difficult to comprehend how that would demolish the case of the Union that the persons concerned were really employed as workmen (helpers) but not as trainees. The Industrial Court makes a bald observation that there was no satisfactory evidence on record to suggest that these persons were employed by the respondents as "regular" employees at any point of time. This bald conclusion/observation, as rightly pointed out by the High Court, ignores the material evidence on record. In fact, the evidence has not been*

adverted to at all while discussing the issues. There was total non-application of mind on the part of the Tribunal to the crucial evidence. The management's witness categorically stated that the workers concerned were engaged in production of goods and that no other workmen were employed for production of goods. In fact, one of the allegations of the management was that they adopted go-slow tactics and did not turn out sufficient work. According to the Industrial Court, the fact that the "trainees" were employed for performing the regular nature of work would not by itself make them workmen. The question then is, would it lead to an inference that they were trainees? The answer must be clearly in the negative. No evidence whatsoever was adduced on behalf of the management to show that for more than one and half years those persons remained as "trainees" in the true sense of the term. It is pertinent to note the statement of the management's witness that in June-July 1989, the Company did not have any permanent workmen and all the persons employed were trainees. It would be impossible to believe that the entire production activity was being carried on with none other than the so-called trainees. If there were trainees, there should have been trainers too. The management evidently came forward with a false plea dubbing the employees/workmen as trainees so as to resort to summary termination and deny the legitimate benefits. On the facts and evidence brought on record, the conclusion was inescapable that the appellant employer resorted to unfair labour practice. There would have been travesty of justice if the High Court declined to interfere with the findings arbitrarily and without reasonable basis reached by the Industrial Court."

29. Contrary to the factual matrix involved in Trambak Rubber Industries (supra), facts of the present case do not reveal anything about the Appellant

or such similarly placed trainees alone carrying out the work of grainers for the Respondent-Management. Moreover, no evidence or argument regarding the permanent staff of grainers has been placed on record, for this Court to rely on the conclusion of the Apex Court as extracted above.

30. With the facts of Trambak Rubber Industries (supra) being substantially different from those involved in the present Appeal, this Court is of the opinion that the judgment would not come to the aid of the Appellant's case.

31. In light of the foregoing discussion, we find no legal infirmity in the Impugned Judgment passed by the learned Single Judge. The present Appeal is therefore dismissed.

32. Pending application(s), if any, are also disposed of.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

FEBRUARY 06, 2026
*Prateek/Rahul/*AP