



Sakshi Singhal
Associate

SC ON JURISDICTION OF CIVIL COURTS IN INDUSTRIAL DISPUTES

A. Introduction:

Supreme Court (“**SC**”), while deciding dispute relating to wrongful termination in *Milkhi Ram v. Himachal Pradesh State Electricity Board*,¹ held on 8th October that civil courts lack jurisdiction to entertain suits which are structured on the provisions of the Industrial Disputes Act (“**ID Act**”).

B. Brief Facts:

1. Milkhi Ram (“**Appellant**”), a daily wage employee under the Himachal Pradesh State Electricity Board (“**Board**”), was terminated from service on 1st January 1985.
2. The Appellant claimed that having completed 2778 days of ‘continuous service’, his termination from service constituted wrongful termination as the statutory requirements under Section 25F² of the ID Act were not complied with it.
3. The termination order was placed under question before the District Judge, Dharamshala (“**District Judge**”).
4. The Board questioned the jurisdiction of the District Judge in handling an industrial dispute.

C. District Judge’s Order:

1. The District Judge decreed favouring the Appellant and rejecting the jurisdictional objection raised by the Board³ (“**Decree**”).
2. The Board, based on the Decree, made an offer to the Appellant to join back the Board with regular pay scale effective 1st September 2001.
3. The Appellant did not join the Board as the offer made to him was hedged with various conditions.
4. He made an application for the execution of the Decree before the Civil Judge (Junior Division) (“**CC**”).

D. CC Order:

1. The Board contended that:
 - a. The CC had no jurisdiction; and
 - b. The Appellant had not completed 240 days of uninterrupted service.
2. The CC referred to the provisions of Sections 25B⁴ and 25F of the ID Act and noted that the plaintiff had rendered service for well above 240 days. Hence, his service could not have been terminated without complying with the statutory requirements.⁵
3. The CC rejected the claims of the Board and ordered (“**CC Order**”) the Board to:
 - a. Pay all back wages were paid to the Appellant; and
 - b. Offer a job to the Appellant.

¹ https://main.sci.gov.in/supremecourt/2009/3082/3082_2009_42_1501_30701_Judgement_08-Oct-2021.pdf.

² Conditions precedent to retrenchment of workmen.

³ Paragraph 5 of the Judgement.

⁴ Continuous service.

⁵ Paragraph 4 of the Judgement.

2. The Board challenged the CC Order before the High Court of Himachal Pradesh (“HC”).

E. HC Order:

1. The Board contended that the CC had no jurisdiction to adjudicate a claim arising out of the ID Act. Relief could have been granted only by the industrial court and that absence of jurisdiction can be raised at any stage.⁶
2. The Appellant submitted that CC had already answered the question on jurisdiction in his favour.
3. The HC held that the CC lacked inherent jurisdiction to entertain the suit under the ID Act and the Decree passed was null and therefore it was set aside (“HC Order”).
4. Aggrieved by HC Order, the Appellant approached the SC.

F. SC Order and Reasoning:

1. The Appellant, relying on the SC decision in *Mohar Singh* case, contended that even when relief is claimed based on the provisions of the ID Act, the jurisdiction of CC is not entirely barred.⁷
2. The Board continued to contend that jurisdiction of the CC is ousted when claimed relief is founded on the ID Act.⁸
3. The SC observed the following:⁹
 - a. The only issue to be considered here is whether the suit before the CC was maintainable;
 - b. The CCs may have the limited jurisdiction in service matters, but it may not have jurisdiction to adjudicate on orders passed by disciplinary authority.
 - c. The authorities specified under the ID Act perform various functions under it and those include dispute resolution in wrongful termination cases.
4. It held: “*This Court is unable to accept the view propounded by the courts below and is of the considered opinion that the civil court lacks jurisdiction to entertain a suit structured on the provisions of the ID Act. The decree favouring the plaintiff is a legal nullity and the finding of the High Court to this extent is upheld.*” (Emphasis added.)

G. Conclusion:

The judgment highlights two important legal aspects:

1. Civil courts lack inherent jurisdiction to entertain industrial disputes.
2. Termination amounting to retrenchment must only be compliance with Section 25F of the ID Act.

This *Counselence Connect* contains information in a nutshell on a recent change in law.

This is not legal advice and must not be treated so. For legal advice, please contact us at: info@counselence.com.

⁶ Paragraph 8 of the Judgement.

⁷ *Rajasthan State Road Transport Corporation and Ors. vs. Mohar Singh* 3 (2008) 5 SCC 542, at paragraph 11 of the Judgement.

⁸ Paragraph 12 of the Judgement.

⁹ Paragraph 12 of the Judgement.

© 2021 Counselence