Labour Law

December 05, 2022	Kirloskar Brothers Limited [Appellant(s)] vs. Ramcharan and Ors. [Respondent(s)]	Supreme Court of India Civil Appeal No. 8446-8447 of 2022

Brief Facts of the Case:

That respondent Nos. 1 to 6 herein were contractual labourers of the respondent No. 7, who was a contractor engaged by the appellant in terms of contract dated 22.04.1995, which was renewed from time to time, including on 01.08.1995. Upon entering into the contract, necessary compliances under Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as "CLRA Act") was completed by the appellant and the respondent No. 7 - contractor. The labour contract came to an end on 07.10.1996. Therefore, the services of the respondents were dispensed with by the contractor. Accordingly, the appellant filed a return under CLRA Act on 25.01.1997, which shows that the contract with the respondent No. 7 had come to an end.

According to the appellant, all statutory payouts, including the salary of the workmen were paid by the contractor since under the CLRA Act, the ultimate responsibility would be upon the appellant if these were not paid by the contractor. By letter dated 06.04.1996, the appellant informed the contractor about deducting an amount of Rs. 7,224/- from the bill payable, for non-deposit of PF contribution for May, 1995.

That thereafter, the respondents approached the Labour Court praying inter alia that they were employees of the appellant, who have been orally terminated by the respondent No. 7 and sought to be reinstated in service. That the learned Labour Court vide judgment and order dated 14.03.2002, on appreciation of evidence returned a categorical finding that the Contractor had obtained license under the CLRA Act and that the contesting respondents were the employees of the contractor and not of the appellant.

That upon appeal, the learned Industrial Tribunal passed an order dated 05.02.2004, ordering reinstatement and holding that a contract labourer automatically becomes an employee of the principal employer. Thereafter, the Industrial Tribunal considered the definition of 'employee' and 'employer' as contained in Sections 2(13) and 2(14) of the Madhya Pradesh Industrial Relations Act, 1960 (hereinafter called as "MPIR Act").

The judgment and order passed by the Industrial Tribunal has been confirmed by the learned Single Judge. The writ appeal filed against the judgment and order passed by the learned Single Judge has been dismissed as not maintainable and hence the appellant has preferred the present appeals challenging the judgment(s) and order(s) passed by the learned Single Judge as well as by the Division Bench of the High Court.

Judgement:

It is submitted that in the present case, admittedly, no notification under Section 10 of the CLRA Act has been issued. It is submitted that therefore, in the absence of a notification under Section 10 of the CLRA Act, which can only be passed by the appropriate Government, the Industrial Court could have given relief to the workmen only if they had claimed and proved by leading cogent evidence that the contract with the contractor was a sham.

In the absence of any notification under Section 10 of the CLRA Act and in the absence of any allegations and/or findings that the contract was sham and camouflage, both the Industrial Tribunal as well as the High Court have committed a serious error in reinstating the contesting respondents and directing the appellant – principal employer to absorb them as their employees. The parties shall be governed by the CLRA Act and relief, if any, could have been granted under the provisions of the CLRA Act and not under the MPIR Act.

In view of the above and for the reasons stated above, the present appeals are allowed.

For details:

https://api.sci.gov.in/supremecourt/2019/9628/9628_2019_5_1501_40289_Judgement_05-Dec-2022.pdf

October 12, 2023	**M/s Mathosri Manikbai Kothari College of Visual Arts {Appellant(s)} vs. The Assistant Provident Fund Commissioner {Respondent(s)}**	**Supreme Court of India** **Civil Appeal No.4188 of 2013** **Judgement**

Brief Facts:

Ideal Fine Arts Society runs two institutions, namely, the 'Ideal Institute of Fine Arts' and 'Mathosri Manikbai Kothari College of Visual Arts'. Both, the Ideal Institute as well as the Arts College are being run in the same campus. It was claimed that the Ideal Institute employed 8 persons, whereas the Arts College had 18 employees. The appellant submitted that both the Institutes, namely, Ideal Institute and Arts College are independent from each other and are merely being managed by the same Society. Under the provisions of the EPF Act, if any establishment employs 20 or more persons, the same shall be covered under the provisions of the EPF Act.

The issue arose with reference to their coverage and application of the EPF Act.

Judgement:

The inter alia observed that mere fact that two Institutes, managed and controlled by the same management, offer different courses or were established at different times is not relevant for their clubbing under the EPF Act. The fact that one of the institutes receives 100% grant-in-aid from the government while the other is receiving to the extent of 70%, is also not relevant. After coverage of the establishments, the benefits, as determined for the purpose of assessing dues under the EPF Act, have already been assessed by the Commissioner. From a perusal of the material available on record and the settled position of law, it can be safely opined that there is financial integrity between the Society of the appellant as well as the Ideal Institute as substantial funds have been advanced to the Institutes by the Society. Further, both the Institutes are functioning from the same premises.

For details:

https://main.sci.gov.in/supremecourt/2011/34146/34146_2011_9_1502_47582_Judgement_12-Oct-2023.pdf

August 17, 2023	**Assistant Provident Fund Commissioner (Appellant) vs. M/s G4S Security Services (India) Ltd. & Anr (Respondents)**	**Supreme Court of India Civil Appeal No. 9284 of 2013**

For the purposes of determining the basic wage under the EPF Act, whether reference must be made to the definition of the expression 'minimum rate of wages' under Section 4 of the Minimum Wages Act, 1948?

Order:

In the above matter, Hon'ble Apex Court opinioned that once the EPF Act contains a specific provision

defining the words 'basic wage' (under Section 2b), then there was no occasion for the appellant to expect the Court to have travelled to the Minimum Wages Act, 1948, to give it a different connotation or an expansive one, as sought to be urged. Clearly, that was not the intention of the legislature.

For details:

https://api.sci.gov.in/supremecourt/2011/31676/31676_2011_11_104_46149_Order_17-Aug-2023.pdf

21.07.2023	**Swornalata Dash (Petitioner) Vs. State of Odisha and Others (Opposite Parties)**	**High Court of Orissa W.P.(C) No.620 of 2015 (An application under Articles 226 and 227 of the Constitution of India)**

Maternity Leave Cannot Be Compared or Equated with Any Other Leave as It Is the Inherent Right of Every Woman Employee

The Hon'ble High Court in the above-mentioned case inter alia observed that…. But maternity leave cannot be compared or equated with any other leave as it is the inherent right of every woman employee which cannot simply be denied on technical grounds. It would be preposterous to hold otherwise as it would militate against the very process designed by nature. If a woman employee is denied this basic human right it would be an assault on her dignity as an individual and thereby offend her fundamental right to life guaranteed under Article-21 of the Constitution, which has been interpreted to mean life with dignity. In this context, the following observations of the Apex Court in the case of Municipal Corporation of Delhi v. Female Workers (Muster Roll) and another (supra) are highly relevant; "A just social order can be achieved only when inequalities are obliterated and everyone is provided what is legally due. Women who constitute almost half of the segment of our society have to be honoured and treated with dignity at places where they work to earn their livelihood. Whatever be the nature of their duties, their avocation and the place where they work; they must be provided all the facilities to which they are entitled. To become a mother is the most natural phenomena in the life of a woman. Whatever is needed to facilitate the birth of child to a woman who is in service, the employer has to be considerate and sympathetic towards her and must realise the physical difficulties which a working woman would face in performing her duties at the work place while carrying a baby in the womb or while rearing up the child after birth. The Maternity Benefit Act, 1961 aims to provide all these facilities to a working woman in a dignified manner so that she may overcome the state of motherhood honourably, peaceably, undeterred by the fear of being victimised for forced absence during the pre or post- natal period."