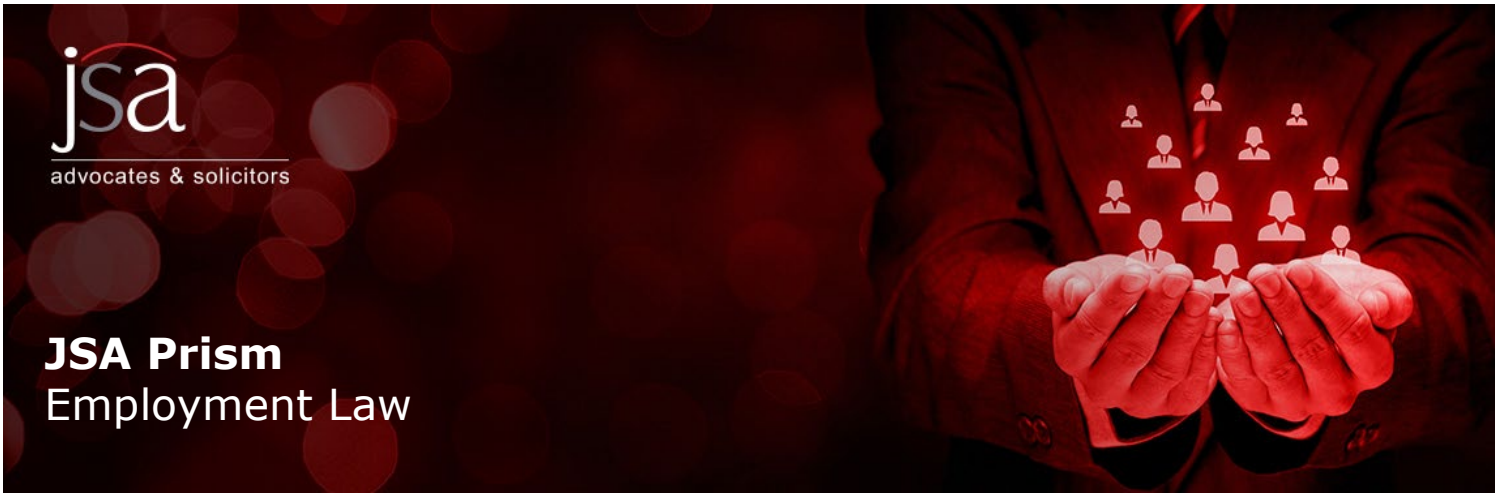

April 2024

Supreme Court clarifies 'workman' status under Industrial Disputes Act, 1947 and an employee cannot dictate terms of his employment to his employer

In ***M/s Bharti Airtel Limited vs. A.S. Raghavendra***[1], the Division Bench of the Hon'ble Supreme Court of India ("**Supreme Court**") holistically analysed the actual role of the respondent in the appellant's company and relied upon multiple facets such as terms of his appointment letter, nature of his supervisory duties with respect to the 4 (four) managers reporting to him, and his prior work experiences, to determine whether he qualified as a "workman" under Section 2(s) of the Industrial Disputes Act, 1947 ("**ID Act**"). The Court also clarified that the absence of the power to appoint, dismiss, or hold disciplinary inquiries against other employees (i.e., powers that are typically exercised by persons in managerial/supervisory roles) would not and could not be the sole determining criterion on the issue and qualify him as a "workman" under the ID Act.

The judgment also sheds light on the autonomy and prerogative enjoyed by employers with respect to determining employment terms related to performance and ratings, and explicitly addresses the fact that employees do not have the right dictate such terms of their employment to their employers.

Brief Facts

The respondent employee was appointed as the Regional Business Head (South) - Government Enterprise Services on June 22, 2009, in the grade of senior manager (B2)- Sales at the appellant company (i.e., Bharti Airtel) ("**Company**"), with an annual package of INR 22,00,000 (Indian Rupees twenty-two lakh). He was also a team leader, heading a team of 4 (four) account managers (Sales) in 4 (four) different States, who worked under his supervision and control and were in B1 and B2 salary grades. On March 24, 2011, the respondent resigned from the Company's services. The Company accepted his resignation on May 9, 2011, and paid INR 5,92,538 (Indian Rupees five lakh ninety-two thousand five hundred and thirty-eight) in full and final settlement of all his claims.

About 19 (nineteen) months later, the respondent filed a petition before the concerned Deputy Labour Commissioner in Bengaluru, alleging that his resignation was a forceful resignation. A conciliation was initiated, but it failed to resolve the dispute.

On June 27, 2013, the Karnataka Government (being the "appropriate government") referred the dispute to the Labour Court under Section 10(1)(c) of the ID Act.

[1] Civil Appeal No. 5187 of 2023 (Decided on April 02, 2024)

The Labour Court made its award on September 5, 2017. It held that the respondent had failed to plead or prove that he was a "workman", and an assessment of the evidence on record, indicated that he was performing the role of a manager, and hence, was not a "workman" under the ID Act.

Thereafter, the respondent filed a writ petition before the Karnataka High Court to challenge the Labour Court's award. The Single Judge adjudicating the matter partly allowed the writ petition, holding that since the respondent did not have the power to appoint, dismiss or hold disciplinary enquiries against other employees, he did not belong to the managerial category, and thus, was a "workman" under the ID Act. Further, the Single Judge set aside the Labour Court's award and remanded the matter back to the Labour Court for adjudication on merits within 3 (three) months. Against the Single Judge's judgment, the Company filed an appeal before the Division Bench of Karnataka High Court which was dismissed. Thereafter, the Company filed a civil appeal before the Hon'ble Supreme Court against the Division Bench's final judgment and order.

Issues

1. Whether the respondent qualified as "workman" under Section 2(s) of the ID Act.
2. Whether the Karnataka High Court had exceeded its jurisdiction by reappraising the evidence in a writ of certiorari under Article 226 of the Constitution.

Findings and Opinion

Issue 1: The Supreme Court held that the respondent did not qualify as a "workman" under Section 2(s) of the ID Act based on the following reasoning and conclusions:

3. His appointment letter indicated that his appointment was as "Senior Manager(B2) - Sales" in the Company.
4. Clause 5.5 of his appointment letter specifically provided, that he was part of the "managerial cadre", responsible for the overall smooth and effective functioning of the department/ establishment/ office/ staff/ employees under his charge as well as successful and timely completion of any job / work assigned to him or any person working under his control and supervision, and he was required to ensure proper and effective adherence to the norms of office discipline including working hours, systems and procedures by the staff/ employees working under his supervision and/or in the department/ office/ establishment under his charge.
5. He had multiple perks including car hiring charges, petrol and maintenance, driver's salary, and professional body membership(s).
6. Even prior to joining the Company's service, the respondent had worked in a managerial capacity in his previous employments.
7. He had a supervisory role over 4 (four) managers and was the assessing manager of his team.

Further, the Supreme Court clarified that the mere absence of power to appoint, dismiss or hold disciplinary inquiries against other employees would not and could not be the sole criterion to determine whether an employee qualified as a "workman".

Issue 2: With regards to the High Court's power to re-appraise facts, the Supreme Court held that it could not be said that the same was completely impermissible under Articles 226 and 227 of the Constitution. There must be a level of infirmity in the order of the tribunal that was facing judicial scrutiny before the High Court, which was more than ordinary to justify the High Court's interference. The Supreme Court concluded that such a situation did not prevail in the present case.

It is noteworthy that the Supreme Court also opined on whether the respondent's resignation was a forceful resignation by the Company. The Supreme Court assessed the overall facts and circumstances leading to the respondent's resignation as well as the content of his resignation letter. The respondent's resignation letter stated that the reasons for his resignation were, amongst others, that (i) he was subjected to unfair rating without any feedback

or review; (ii) he faced personal and professional humiliation; (iii) he was left with no option but to resign; and (iv) such resignation was not of his own free will. In this regard, the Supreme Court held that an employee could not dictate the terms of his employment to his employer, and although there were channels available to an employee to vent his/her grievances, ultimately the view of the competent authority within the organisation would prevail with respect to his/her appraisal/ rating. Further, the Supreme Court interpreted that the phrase "not of his free will" would not mean that it was coerced upon him by the Company. Just because things did not turn out the way the respondent had wanted, or that his grievances were not adequately addressed could not lead to the presumption that his resignation was forced upon him by the Company.

Conclusion

In this judgement, the Supreme Court has considered different factors that would be important to determine whether an employee qualifies as a "workman" within the meaning of the ID Act. The Supreme Court holistically analysed the actual role of the respondent in the Company and relied upon multiple facets such as appointment letter, supervisory duties with respect to the 4 (four) managers, and his prior work experience. The Court also clarified that the mere absence of power to appoint, dismiss or hold disciplinary inquiries against other employees (i.e., powers that are typically exercised by persons in managerial/supervisory roles) would not and could not be the sole criterion to determine whether an employee qualified as a "workman".

The judgment also sheds light on the autonomy and prerogative enjoyed by employers with respect to determining employment terms related to performance and ratings, and explicitly addresses the fact that employees do not have the right dictate such terms of their employment to their employers. The Supreme Court also clarified that the phrase "not of his free will" did not automatically imply coercion by the employer.

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