

Sucheta
Kripalani
v.
Shri S. S.
Dulat, I.C.S.,
Chairman of
the Election
Tribunal,
Delhi
and others
—
Bose, J.

of the trial of an election petition on other grounds. Whether it could be properly seised of such a trial if this had been the only allegation, or if the minor corrupt practice alleged was not reasonably connected with the other allegations about major corrupt practices, does not therefore arise. As the trial is proceeding on the other matters the Tribunal is bound under section 143, now that the issue has been raised, also to enquire into the question of the falsity of the return. Without such an enquiry it cannot reach the finding which section 143 contemplates. We need not look into the other sections which were touched upon in the arguments and in the Courts below because section 143 is clear and confers the requisite jurisdiction when a trial is properly in progress.

The appellant has failed on every question of substance that she raised. There was some vagueness in the Election Tribunal's order about which of the two returns formed the basis of the enquiry on this point but even if the Tribunal intended to treat the first return as the basis, that did not really affect the substance because exactly the same allegations are made about the second return and the issue of fact would therefore have to be tried in any event. The appellant's whole endeavour was to circumvent such an enquiry and oust the Tribunal's jurisdiction. In that she has failed, so she will pay the contesting respondent's costs throughout.

The appeal fails and is dismissed with costs all through.

REVISIONAL CIVIL
Before Bhandari, C. J.

MEHRA AND CO., TEA FACTORY, AMRITSAR,—
Petitioner
versus

SHRI KANAYIA LAL AND OTHERS,—Respondents.

Civil Revision No. 276 of 1955

Payment of Wages Act (IV of 1936)—Section 2(vi)—
Wages—Claim for compensation under section 25-F of the

Sept., 23rd

1955

Industrial Disputes Act, by a retrenched worker—Whether wages within the meaning of section 2(vi) of the Payment of Wages Act.

Held, that the expression “wages” in section 2(vi) of the Payment of Wages Act, is wide enough to embrace not only a sum payable to an employee under the terms of a contract but also a sum payable to him under the provisions of the Industrial Disputes Act.

A. R. Sarin v. B. C. Patil and another (1), referred to.

Petition under Section 44 of Act 9 of 1919, for revision of the order of Shri William Augustine, Senior Sub-Judge, Amritsar, Authority under the Workmen’s Compensation Act, dated 24th June, 1955, deciding the preliminary issues in favour of the applicant.

A. N. GROVER, for Petitioner.

BHAGIRATH DASS, for Respondents.

JUDGMENT

BHANDARI, C. J. An authority constituted **Bhandari, C. J.** under the Payment of Wages Act decided to entertain a claim under section 25-F of the Industrial Disputes Act on the ground that a claim for compensation put forward by a retrenched employee fall within the ambit of the expression “wages” as defined in section 2 of the Payment of Wages Act. The employer is dissatisfied with the order and has come to this Court in revision.

The expression “wages” as defined in section 2(vi) of the Act of 1936. “means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional

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Mehra and Co., remuneration of the nature aforesaid which would be
Tea Factory, so payable, and any sum payable to such person by
Amritsar reason of the termination of his employment.”.

v.
Shri Kanayia This definition may for convenience be split up
Lal and others into three portions. The first clause declares that
wages means all remuneration, which would, if the
Bhandari, C. J. terms of the contract of employment, express or im-
plied, were fulfilled, be payable to a person em-
ployed in respect of his employment. This clause pre-
sents no difficulty whatsoever, for it declares
in unambiguous language that an employee is
entitled to receive the wages in accordance
with the terms of his contract. The second
clause enacts that the expression “wages”
shall include any bonus or other additional
remuneration of the nature aforesaid which would be
so payable, i.e. payable in accordance with the terms
of the contract. The third clause declares that the
expression “wages” shall include *any sum* payable
to such person by reason of the termination of his
employment. The language of this clause is wide
enough to embrace not only a sum payable to an em-
ployee under the terms of a contract, *A. R. Sarin*
v. B. C. Patil and another (1), but also a sum pay-
able to him under the provisions of a statute.

Assuming for the sake of argument that the am-
ount payable to an employee under clause 3 men-
tioned above must be restricted to the amount
which has been guaranteed to him under the
terms of the contract, express or implied, even
then it seems to me that a statutory provi-
sion in regard to a sum payable to an em-
ployee by reason of the termination of his
employment must be deemed to be an implied term of
the contract. The expression “implied contract”
applies not only to contracts which are implied in fact,
that is which may be inferred from the conduct or

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presumed intention of parties, but also to contracts Mehra and Co., which are implied in law, that is contracts where the Tea Factory, liability arises from an implication of law and from Amritsar facts and circumstances independent of agreement or v. Shri Kanayia presumed intention of parties (paragraph 389 of Lal and others Halsbury's Laws of England 3rd Edition, Volume 8.). As pointed out by an American Judge, in the case of Bhandari, C. J. contracts implied in fact the contract defines the duty while in the case of contracts implied in law the duty defines the contract (*First National Bank v. Matlock* (1)). It follows as a consequence that when the legislature declares that an employer shall make certain payments to an employee whose services are terminated, the law imputes to the employer a promise to fulfil that obligation (*Bailey v. New York C & H. R. R. Company* (2), *Collector v. Hubbard* (*Brainard v. Hubbard*) (3), *Curtis v. Fiedler* (4).

For these reasons, I would uphold the order of the Authority and dismiss the petition. There will be no order as to costs.

APPELLATE CIVIL

Before Dulat, and Bishan Narain, JJ.

UNION OF INDIA,—Appellant

versus

PRITAM SINGH,—Respondent.

Regular First Appeal No. 104-D of 1954

Police Act (V of 1861)—Section 7—Rule 16.24(ix)—
Government of India Act 1935—Sections 240(2) and (3) and
243—Subordinate ranks of police force—Dismissal from ser-
vice—Section 240(2) and 3, whether applicable to such ranks

1955

Sep, 28th

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- (1) 99 Okla 150
 - (2) 22 L. Ed. 840
 - (3) 20 L. Ed. 272
 - (4) 17 L. Ed. 273