

## HR Law Hotline

September 23, 2024

### SUPREME COURT CLARIFIES THE MEANING OF "WORKMAN" UNDER THE INDUSTRIAL DISPUTES ACT, 1947

- Mere absence of power to appoint, dismiss, conduct disciplinary inquiry cannot be the sole criterion to determine, if an employee would fall under the definition of workman under Section 2(s) of the Industrial Disputes Act, 1947.
- An employee cannot dictate the terms of employment to his employer.
- Whether an employee would fall under workman or non-workman category, should be determined holistically, taking various facets into consideration.

### BACKGROUND

In the realm of Indian labour and employment law, one of the critical distinctions lies between the categorization of individuals as "non-workman" and "workman" under the framework of the Industrial Disputes Act, 1947 ("ID Act"). This classification carries significant legal value, particularly in determining the rights, protections, and entitlements available to a workman. Recently, vide a judgment dated April 02, 2024, the Supreme Court ("SC") in case of **M/s Bharti Airtel Limited vs. A.S Raghavendra<sup>1</sup>**, has decided the question in relation to classification between workman and non-workman. In this case, the SC has expounded the law on criterion used for distinguishing between workman and non-workman.

### FACTS OF THE CASE

In this case, one Mr. A.S Raghavendra ("Employee") was appointed by M/s Bharti Airtel Limited ("Bharti Airtel") for the position of 'Regional Business Head (South)-Government Enterprise Services. The Employee worked as the "Team Leader and Regional Business Head (South)-Government Enterprise Services". He headed a team comprising of four Account Managers (Sales), wherein the said managers worked under the control and supervision of the Employee.

The Employee continued his employment with the Bharti Airtel for few years. However, on March 24, 2011, the Employee initiated an initial resignation request on the internal system of Bharti Airtel which was received by Bharti Airtel on May 09, 2011. In furtherance of this exit process, the Employee was paid a full and final settlement of INR 5,92,538. After 19 months of receiving the full and final settlement, the Employee filed a petition before the Deputy Labour Commissioner, Bengaluru, alleging that his resignation was forceful. 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 ("LC") under Section 10(1)(c) of the ID Act, which held that the Employee was performing the role of a manager, hence was not a workman falling under the purview of the ID Act.

Aggrieved by the said order, the Employee filed a writ petition before a single judge bench of the Karnataka High Court ("KHC") challenging the award passed by the LC. The single judge bench in its judgment ("Single Judge Bench Judgment") held that that since the role of the Employee did not have the power for appointment, dismissal, disciplinary enquiry, this very fact indicated that the Employee belonged not to the managerial category but rather belonged to the workman category. The single judge set aside the award and remanded the matter back to the LC. Aggrieved by the Single Judge Bench Judgment, Bharti Airtel filed a writ appeal before the Division Bench which was dismissed ("Division Bench Judgment"). This Division Bench Judgment was finally challenged before the Supreme Court ("SC") in this civil appeal. The moot question before the SC in this case was whether the Employee fell under the definition of "workman" as per the ID Act,

### JUDGMENT

The Hon'ble SC held that the Division Bench Judgement cannot be sustained. The SC perused the relevant clauses of appointment letter, the facts of the matter and accordingly noted the following:

- That the Employee was a senior manager.
- That the Employee was also eligible for perks inter alia special allowance, car hiring charges, parking allowances.
- That the Employee had also previously worked in various other managerial positions.
- That the Employee performed a supervisory role over the managers and was the Assessing Manager of his team, which consisted of Managers in the B-1 & B-2 Levels.
- That the Employee had himself mentioned that he is applying for the position of "Head-Sales".
- That with respect to the nature of working being undertaken, the absence of power to appoint, dismiss or conduct

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disciplinary enquiries against other employees cannot be the only reason for courts to conclude that an individual was a "workman".

- *That if this logic were to be applied then employees at very high positions, drawing fat salaries, cannot be considered as workman by virtue of the mere fact that they could not hire or fire.*

The Hon'ble SC noted that the assertion of the Employee that his grievances were not adequately or appropriately addressed, cannot lead to the presumption that the resignation was forced upon him by the Bharti Airtel. The SC noted that a person in the employment of any company cannot dictate the terms of the employment to his employer while rejecting the argument that the Employee was forced to resign. In view of the nature of duty performed by the Employee, the SC noted that the Employee was not a workman, and that the judgment of the LC was correct in law.

## ANALYSIS AND CONCLUSION

Being classified as a workman under the ID Act is significant as it empowers individuals with legal protections, rights to collective bargaining, mechanisms for dispute resolution, and safeguards against exploitation, all contributing to a more equitable work environment. In this case, SC *inter alia*, relied on the law laid down in the case of *Ved Prakash Gupta vs. Delton Cable India (P.) Ltd<sup>2</sup>*, and reiterated that absence of power to appoint, dismiss or conduct disciplinary enquiries against other employees was not the only reason for the court to conclude in this case that the employee in this case was a "workman" .

Further, SC also relied on *S.K Maini vs. M/s Corona Sahu Company Limited<sup>3</sup>* and held that an employee discharging managerial duties and functions may not, as a matter of course, be invested with the power of appointment and discharge of other employees. However, it is not unlikely that in a big set-up, such power is not invested to a local manager, but such power is given to some superior officers in the management.

While the term "workman" is defined under Section 2(s) of the ID Act, courts have often taken a broad and fact specific view while deciding if the employee would fall under the definition of workman under the framework of the ID Act.

It is therefore remarkable how the SC has holistically analyzed the nature of the job of the Employee by taking into consideration facets like appointment letter, employment history, job application, amongst others to decide if the employee is a workman. Given the difficulty faced by the organizations in identifying as to who falls within the protected category of 'workman', we believe that this judgment will go a long way in helping companies and businesses understand the said term to ensure that it undertakes relevant compliances vis a vis 'workman'.

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