

All India Reporter Karamchari Sangh and Others

Vs

All India Reporter Limited and Others

Civil Appeal No. 8440 of 1983

(E.S. Venkataramiah, N.D. Ojha JJ)

02.05.1988

JUDGMENT

VENKATARAMIAH, J. -

1. The question which arises for consideration in this case is whether the law reports namely, All India Reporter, Criminal Law Journal Labour and Industrial Cases, Taxation Law Reports, Allahabad Law Journal and U.P. Law Tribune published by respondent 1, All India Reporter Limited, are newspapers as defined in the Working Journalists and Others Newspaper Employees (Conditions of Service) and Miscellaneous Provision Act, 1955 (Act No. 45 of 1955) (hereinafter referred to as 'the Act') and whether the employees of the respondent 1 engaged in the production or publication of the said law reports are entitled to the benefits conferred upon the employees of newspapers establishments by the Act.

2. The Act was enacted on December 20, 1955 with the object of regulating certain conditions of service of working journalists and other employees employed in the newspaper establishments. The expression "newspaper" is defined by Section 2(b) of the Act as follows :

"Newspaper" means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government in the official Gazette.

3. A "newspaper employee" is defined by Section 2(b) of the Act as any working journalist, and includes any other person employed to do any work in, or in relation to, any newspaper establishment. "Newspaper establishment" is defined by Section 2(b) of the Act as an establishment under the control of any person or body of person, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate. The expression "working journalist" is defined by Section 2(f) of the Act as a person whose principal avocation is that of a journalist and who is employed as such, either whole time or part-time, in or in relation to, one or more newspaper establishments and includes an editor, a leader writer, news editor, sub-editor, feature writer, copy-tester, reporter, correspondent, cartoonist, news photographer and proof-reader, but does not include any such person who is employed mainly in a managerial or administrative capacity, or being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the power vested in him, functions mainly of a managerial nature. A "non-journalist newspaper employee" means any person employed to do any work in, or in relation to any newspaper establishment, but does not include any such person who is a working journalist, or is employed mainly in a managerial or administrative capacity or being

employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature as stated in Section 2(dd) of the Act.

4. Chapter II of the Act deals with certain condition of service of the working journalists. Those provisions relate to the retrenchment payment of gratuity, hours of work, leave, fixation or revision of wages etc. Chapter II-A of the Act deals with similar conditions of service of non-journalist newspaper employees.

5. Section 9 of the Act authorised the Central Government to appoint a Wage Board consisting of two person representing employees in relation to newspaper establishments, two person representing working journalists; and three independent persons, one of whom shall be a person who is, or has been, a judge of a High Court or of the Supreme Court and who shall be appointed by that government as the Chairman thereof for the purpose of making recommendations with regard of fixation or revision of wages of working journalists. Similarly, Section 13-C of the Act provides for the constitution of a Wage Board for the purpose of making recommendations regarding the fixation or revision of the rates of wages in respect of non-journalist newspaper employees. Section 13-AA which was inserted by Act 6 of 1979 provides for the constitution of a Tribunal for fixing or revising rates of wages in respect of working journalists where the Central Government is of opinion that the Board constituted under Section 9 for the purpose of fixing or revising rates of wages in respect of working journalists under the Act has not been able to function effectively. That Tribunal has to consist of judge of the High Court or of the Supreme Court. Similarly Section 13-DD of the Act empowers the Central Government to constitute a tribunal where it is of opinion that the Board constituted under Section 13-C of the Act has not been able to function effectively. Section 13AA and Section 13-DD of the Act came into force with effect from January 31, 1979. In exercise of the powers conferred by Section 13-AA and Section 13-DD of the Act the Central Government constituted under two separate notifications two Tribunals on February 9, 1979 with Justice Palekar, a former judge of the Supreme Court, as the member of each of the two Tribunals to make recommendations in respect of fixing or revising wages of working journalists as well as non-working journalists. Justice Palekar made his recommendation on August 12, 1980. In exercise of its powers under Section 12 of the Act the Central Government accepted a part of the recommendation and made an order thereon on December 26, 1980 and accepted the remaining part of the recommendations and made another order thereon on July 20, 1981.

6. Respondent 1, All India Reporter Limited, was not served with any individual notice by the Tribunal before it passed its award. Respondent 1 also did not send a reply to the questionnaire issued by the Tribunal nor it gave any evidence before the Tribunal in respect of the matters referred to therein. However, on July 15, 1981 and August 3, 1981 the Deputy Labour Commissioner, Nagpur wrote to the respondent 1 asking it to file its written statement in the matter of non-implementation of the Palekar Award as the orders of the Central Government made under Section 12 of the Act were popularly called. The first respondent submitted its reply in October 1981 inter alia contending that it was not running a newspaper establishment and publications published by the company were not the newspapers and as such the Palekar Award was not applicable to it. Again on November 18, 1982 the Deputy Labour Commissioner, Nagpur wrote a letter to the Manager of respondent 1 informing him that respondent 1 was liable to implement the order of the Central Government made on the recommendations of the Palekar Tribunal in respect of its employees since respondent 1 was a newspaper establishment. Immediately after the service of the said notice respondent 1 filed a writ petition on the file of the High Court of Judicature at Bombay, Nagpur Bench in Writ Petition No. 2388 of 1982 questioning the validity of the notice served on it by the

Deputy Labour Commissioner, Nagpur calling upon it to implement the orders of the Central Government on the basis of the award of the Palekar Tribunal. Initially the State of Maharashtra, the Commissioner of Labour and the Deputy Labour Commissioner, Nagpur had been impleaded as respondents. Thereafter during the pendency of the writ petition the Indian Federation of Working Journalists and the All India Reporter Karamchari Sangh were impleaded as respondents in the writ petition.

7. It was urged before the High Court on behalf of the respondent 1, All India Reporter Limited, that the law reports published by it were not newspapers as defined in the Act and therefore the order made by the Central Government on the basis of the recommendation of Justice Palekar were not applicable to its establishment. The High Court accepted the plea of respondent 1 and declared that the law reports were not newspapers within the meaning of Section 2(b) of the Act and that the demand made by the Deputy Labour Commissioner to comply with the order made by the Central Government on the basis of the recommendations of Justice Palekar was unsustainable by its judgment dated April 22, 1983. Aggrieved by the decision of the High Court the appellants have filed this appeal by special leave.

8. Respondent 1, All India Reporter Limited, publishes in addition to the law reports referred in the first paragraph of this judgment several other books, commentaries, digests and manuals. But we are concerned in this case with the narrow question whether the six law reports which are being published by respondent 1 are newspapers within the meaning of the Act and whether the employees engaged in their production or distribution are entitled to the benefit of the orders made by the Central Government on the basis of the recommendations of the Palekar Tribunal.

9. The definition of the expression "newspaper" has already been set out above. In order to be a newspaper a work must be a (i) printed work; (ii) a periodical; and (iii) should contain public news or comments on public news. Any other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government in the official gazette may also be a newspaper. There is no dispute in the present case that the law reports are printed works and that they are periodicals. The only question which remains to be considered is whether they contain public news or comments on public news.

10. Entry 39 of List III of the Seventh Schedule to the Constitution reads thus : "Newspapers, books and printing process." Newspapers and books are no doubt shown as separate items but the distinction between them sometimes becomes very thin or totally vanishes. In this connection it is necessary to reproduce a passage from the Report of the Royal Commission on the Press (1947-49) appointed by the British Government and presided over by Sir William David Ross. It reads thus :

The newspaper and periodical press of Great Britain consists of over 4000 publications ranging from newspapers famous throughout the world to the journals of obscure societies. Its limits are ill-defined, for there is no definition of either 'newspaper' or 'periodical' which enables each to be infallibly distinguished from the other and from publication which are properly speaking neither. The term 'newspaper' is usually applied (except so far as concerns the important class of trade newspapers) to publications devoted mainly to recording current events, and 'periodicals' to magazines, reviews, and journals which, insofar as they are concerned with current events at all, are concerned to comment rather than to report; but newspapers merge into advertising sheets, periodicals into books and pamphlets, and both into one another;

11. The expression "news" is not defined in the Act. Several definition of the expression "news" collected from the different dictionaries and digests have been cited before us. It is enough if we refer to the meaning of the word "news" given in the Shorter Oxford English Dictionary for purposes of this case. It says that "news" means tidings, new information of recent events; new occurrences as a subject of report or talk. The law reports which are being published by respondent 1 are reports of recent decision of the Supreme Court of India and of the High Courts in India which are supplied to it by its agents appointed at New Delhi and other places where High Courts are situated. It cannot be disputed that these decision are of public importance. Article 141 of the Constitution provides that the law declared by Supreme Court shall be binding on all courts within the territory of India. Even apart from Article 141 of the Constitution the decision of the Supreme Court, which is a court of record, constitute a source of law as they are the judicial precedents of the highest court of the land. They are binding on all the courts throughout India. Similarly the decision of every High Court being judicial precedents are binding on all courts situated in the territory over which the High Court exercises jurisdiction. Those decision also carry persuasive value before courts which are not situated within its territory. The decisions of the Supreme Court and of the High Courts are almost as important as statutes, rules and regulations passed by the competent legislatures and other bodies since they affect the public generally. It is wellknown that the decisions of the superior courts while they settle the disputes between the parties to the proceedings in which they are given they are source of law insofar as all others are concerned. As soon as a decision is rendered the members of the public would be interested in knowing it. At any rate lawyers and others connected with courts and judicial proceedings who constitute substantial section of the public are interested in knowing the contents and the effect of the decision. Respondent 1, All India Reporter Limited, and other publishers of law reports in the interests of their own business vie with each other to publish the judgments of the Supreme Court or of the High Courts as early as possible in their law reports which are published periodically either weekly, fortnightly or monthly. They believe that faster the decision are published in their reports, larger will be number of subscribers. In fact we have a law report which is published from Delhi which publishes the judgment rendered by the Supreme Court within a day or two. The contents of these law reports constitute news insofar as the subscribers and the readers of these reports are concerned. It is by reading these law reports they come to know of the latest legal position prevailing in the country on any question decided in the decisions reported in the said reports. Hence it is difficult to agree with the submission made on behalf of respondent 1 that he law reports do not carry any news and that the public is not interested in them. We are of the view that any decision published in the law reports of respondent 1 contain information about the recent events which have taken place in the Supreme Court or in the High Courts which are public bodies and these are matter in which the public in interested. We find it also difficult to agree with submission made on behalf of respondent 1 that since the law reports are going to be preserved by the lawyers as reference book after getting them rebound subsequently they should be treated as books. It may be that the decisions contained in these law reports may cease to be items of news after some time but when they are received by the subscribers they do possess the character of works containing news.

12. Strong reliance placed on behalf of respondent 1 on the decision of the High Court of Orissa in *P. S. V. Iyer v. CST* (AIR 1960 Ori 221 : 26 Cut LT 446 : (1960) 11 STC 608) in which the question that arose for consideration was whether a law journal - *Cuttack Law Times*, which was a non-official monthly journal containing the decision of the Orissa High Court, the Orissa Board of Revenue and also of the Supreme Court was a newspaper and if it was newspaper whether it was competent for the legislature of the State of Orissa to levy sales tax on the sale of the said journal. The said question arose in that from in view of the language of entry 54 of List II of the Seventh

Schedule to the Constitution which read as follows :

54. Taxes on the sale or purpose of goods other than newspapers, subject to the provisions of entry 92-A List I.

13. The language of entry 92 of List I of the Seventh Schedule to the Constitution which conferred on Parliament alone the power to tax sale or purchase of newspapers was in the following terms :

92. Taxes on the sale or purchase of newspapers and on advertisements published therein.

After referring to the definition of the expression "newspaper" in the Press and Registration of Books Act, 1867, the Indian Post Offices Act, 1898, the Parliamentary Proceedings (Protection of Publication) Act, 1956, the Deliver Books and Newspapers Act, 1956 etc., the High Court of Orissa held that the Cuttack Law Times was not a newspaper because according to it the necessary prerequisite of a periodical in order to make it a newspaper was that it should contain mainly public news or comments on public news and that books containing authoritative reports for future reference could, by no means, be said to contain news so as to become newspaper. Accordingly, the High Court of Orissa held that the sale of Cuttack Law Times, which according to it was not a newspaper, could be taxed by the state legislature under entry 54 of List II of the Seventh Schedule of the Constitution of India. We find it difficult to agree with the above decision since the High Court of Orissa omitted to take into consideration that information about recent decision of courts of record could be news in which the public was interested. The fact that a law report could be used as a reference book at a later stage was not sufficient to hold that the law report did not contain public news when it was received by the subscriber.

14. The High Court of Madras declined to follow the above decision of the Orissa High Court in its decision in *T. V. Ramnath v. Union of India* (1975 Lab IC 488 (Mad HC)) in which the Madras Law Journal, a law report published from Madras, was held to be a newspaper and the establishment in which the said law report was being published was newspaper establishment which attached the provision of that Act. We agree with the following observation made in the said decision by Ismail, J. (as he then was) :

Similarly, the publication of the petitioner in the second writ petition can be said to contain 'public news' or 'comments on public news' since it contains reports of the judgment of the courts as well as comments on such judgments. Even though, the same may be primarily intended for that section of the public which is concerned with law and the administration of law, in the present days, nothing prevents any educated individual taking interest in publications and the news themselves being of interest to such person. Therefore I am clearly of the opinion that the expression 'public news' is of sufficiently wide amplitude to cover the publications of both the petitioners in question.

15. It is seen that the editor of the law report containing the above decision has appended an editorial comment on this stating that this decision is wrong and that the Orissa High Court's decision was right. Justice. A. N. Grover, who later became a judge of the Supreme Court of India and the Chairman of the Press Council, as judge of the Punjab & Haryana High Court held in *L. D. Jain v. General Manager, Government of India Press* (ILR 1967 P and H 193) that the Gazette of India which was the official publication of all kinds of news and information was a newspaper

within the meaning of Section 2(b) of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 and that it was not essential for a newspaper to conform strictly to the usual pattern of a daily or weekly or monthly newspaper or a magazine containing news which members of the public ordinarily read in order to get reports of recent events, comments on them etc. In doing so, he distinguished the decision of the Australian Court in *Ex Parte Stillwell* ((1923) 29 VLR 413) in which the *Bradshaw's Guide* was held to be a book of reference which lacked every element of what could be called a newspaper on which the Orissa High Court had relied.

16. Respondent 1 cannot derive any assistance from the decision of the High Court of Bombay in *CST v. M/s. Express Printing Press* (AIR 1983 Bom 190 : (1983) 52 STC 290 : 1983 Tax LR 2871) in which the Bombay High Court held that the two publications by name 'Joker' and 'Jabara' which contained predictions or forecasts of lucky numbers were not newspapers since those publication had nothing to do with any recent event which had taken place.

17. In the Annual Report of the Registrar of Newspapers for India, 1957 there is an interesting discussion of certain specific cases in which the question whether the publications involved were newspapers or not. In the course of the said report it is observed thus :

In this connection the Press Registrar scrutinised reports published in certain foreign countries regarding their own press and it was noticed that in the catalogues prepared by the them specialised newspapers such as the one under consideration were not excluded from the list of newspapers. Even technical journals such as medical periodicals, journals related to sciences, arts etc., were included. A catalogue of Yugoslav newspapers and magazines, for instance, includes publication relating to the following subjects :

Political information; economics; law and State administration; education; philology; natural sciences; medicine; agriculture; technology; geography, ethnography; history; archives; archaeology; literature; music; applied art; film; chess; photography; tourism; stamp collecting; physical culture and sport; humour and religion.

In a catalogue of Russian papers for 1958 all the above categories of newspapers and periodicals have been included in addition to many other which deal exclusively with party affairs.

18. It is significant that the expression 'newspaper' as defined in the Act includes not merely 'public news' but also 'comments on public news'. Every law report contains the editorial note at the commencement of the decision printed therein and also comments on some of the recent decisions. Law reports also contain, newly enacted Acts, rules and regulation, book reviews and advertisements relating to law books, handwriting and finger print experts etc., speeches made at conferences in which the legal fraternity is interested etc. Though the publication of these items by itself may nor occupy a substantial part of law report to make it a newspaper, the publication of the recent judgments itself is sufficient to make a law report a newspaper which may after some time cases to be a newspaper and become a book of reference.

19. The Act in question is a beneficent legislation which is enacted for the purpose of improving the conditions of service of the employees of the newspaper establishments and hence even if it is possible to have two opinions on the construction of the provisions of the Act the one which advances the object of the Act and is in favour of the employees for whose benefit the Act is passed

has to be accepted.

20. We are of the view that the law reports published by respondent 1 are newspapers and the employees employed by respondent 1 in their production or publication of the said law reports should be extended the benefit of the orders passed by the Central Government on the basis or the recommendations made by the Palekar Award. We, accordingly, allow the appeal, set aside the judgment of the High Court and dismiss the writ petition filed by respondent 1 before the High Court. There will, however, be no order as to costs.

</html