

Branch manager having subordinates will not be a 'workman' under Industrial Disputes Act.

INDUSTRIAL DISPUTES ACT, 1947 – Section 2(s) – 'Workman' – Scope of – Employee was appointed as Business Executive in 1986 – He was transferred as Branch Manager at Rajkot – His salary was reduced from Rs. 15000 to Rs. 10000 – He was terminated on 01.04.2008 on account of offices closed down orally – Industrial dispute raised by him was rejected by the Labour Court holding that he does not fall within the definition of 'workman' under Section 2(s) of the Act – Writ petition was dismissed by the Learned Single Judge on the same ground – He filed LPA – Held, evidence on record reveals that appellant was Branch Manager – Two persons were subordinate to him – His salary was Rs. 10000 per month exceeding prescribed limit of Rs. 1600 p.m. under Section 2(s) of the Act – In view of such concurrent findings, interference by writ appellate court is not appropriate – Writ appeal stands dismissed.

IMPORTANT POINTS:

- Branch Manager working in a Branch having two persons as his subordinates, drawing salary of Rs. 10000 per month exceeding prescribed limit of Rs. 1,600 p.m. under Section 2(s) of the Industrial Disputes Act, 1947, would not be covered under the definition of 'workman' as provided.
- When an employee is not a 'workman' coverable under the definition of workman as provided under Section 2(s) of the Industrial Disputes Act, 1947, would not be entitled to invoke provisions of Industrial Disputes Act for redressal of his grievances against the employer.
- Writ jurisdiction of the High Court under Articles 226 and 227 of the Constitution of India is very limited and in cases of concurrent findings by the Labour Court and confirmed by the Learned Single Judge, interference by writ appellate court is not appropriate.

ORAL ORDER:

In the present letters patent appeal, under clause 15 of the Letters Patent, 1865 the appellant has assailed the order dated 06.08.2018 passed by the learned Single Judge in the captioned writ petition.

2. The case of the appellant is that he was illegally terminated de hors the provisions of the Industrial Disputes Act, 1947 (the Act) and the observations made by the Labour Court, Rajkot as well as the learned Single Judge of this court in not treating him as a "workman" under section 2(s) of the Act is illegal and unjustified.

The termination was subject matter of dispute and the same culminated into Reference (L.C.R.) No.62 of 2011 before the Labour Court, Rajkot. The Labour Court, by award dated 07.02.2011, rejected the reference by holding that the appellant does not fall within the definition of "workman" under section 2(s) of the Act.