

Part-heard

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 3326-3328 OF 2001

Pratiraksha Mazdoor Sangh (MPF)
(s)

Appellant

VERSUS

State of Maharashtra & Ors.

Respondent(s)

(With office report)

Date: 26/07/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Appellant(s)

Mr. D.P. Chaturvedi, Adv. for

Mr. S.N. Bhat, Adv.

For Respondent(s)

Mr. Manish Pitale, Adv. for

For RR 1-3

Mr. R.K. Adsure, Adv.

For RR 4-5

Mr. Gaurav Agrawal, Adv.

Mrs. Anil Katiyar, Adv.

UPON hearing counsel the Court made the following

O R D E R

The Appeals are dismissed. Parties to bear their own costs.

(Parveen Kr. Chawla)

(Kanwa

l Singh)

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3326-3328 OF 2001

Pratiraksha Mazdoor Sangh (MPF)

Appellant(s)

Versus

State of Maharashtra & Ors.

Respondent(s)

O R D E R

Members of the registered unions of employees of Or

dnance

Factories in the State of Maharashtra file three writ petitions bearing Nos.

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4571 of 2000, 4089 and 4094 of 1994 in the High Court clai

the

exemption from payment of professional tax under Section 27-A of

Maharashtra State Tax on Profession, Trade, Callings and Employments

Act, 1975 (for short 'the Act') on the plea that they fall in the definition of

'Member of the Forces' as defined under the Army Act, 1950 so as to get

themselves included in the class of persons exempted under Section 27-A of

the Act from payment of professional tax. The High Court by its impugned

judgment has dismissed the writ petitions.

Earlier, a Division Bench of the High Court of Bombay in the case

of B.S.Raut & Others vs. State of Maharashtra & Others reported in 1992
Mh.L.J. 360 had held that, as per definition as it existed on that date, the
employees of the Ordnance Factories would also be entitled to the
exemption being at par with members of armed forces from payment of
professional tax under the Act.

In the year 1991, Section 27-A which provides for exemption to
the members of the armed forces was amended with retrospective effect i.e.
with effect from the date of its insertion on 1st November, 1976 by
Maharashtra Act No. 12 of 1991 on 22nd February, 1991.

The amended Section 27-A was once again amended and clause
'a-1' was inserted by Maharashtra Ordinance No. 12 of 1996 which was
substituted by Maharashtra Act No. 9 of 1997 with effect from 1st October,
1996, which reads:

"(a-1) persons on the establishment of Defence
Ordnance Factories in any part of the State."

The above clause was deleted by Maharashtra Act No. 28 of 2000
with effect from 1st May, 2000.

The authorities under the Act came to the conclusion that the
persons working in the Ordnance Factories were not entitled to the
exemption from payment of professional tax under the Act under the
amended Section 27-A. Members of Union thereafter filed writ petitions
which have been dismissed.

Appellants who were not parties before the High Court filed the
special leave petition with an application for permission to file the special

leave petition as they were similarly situated as the writ petitioners before the High Court . This Court on 23.4.2001 granted permission to file the special leave petition and also granted leave.

We have gone through the impugned order of the High Court as

well as the various amendments carried out in the Act. We are of the

opinion that the High Court has rightly interpreted the amended section 27-

A and the appellants would not be entitled to the exemption from payment

of professional tax under the Act. Under the amended Section 27-A, the

members of the armed forces have been defined to mean (a) the members of

the Force as defined in the Army Act, 1950 or the Air Force Act, 1950 and

the members of the Indian Navy as defined in the Navy Act, 1957 serving in

any part of the State and drawing pay and allowances as Army or Air Force

or Navy, as the case may be, including the members of auxiliary forces or

reservists, or reserve and auxiliary services serving in any part of the State

and drawing pay and allowances as such auxiliary forces or reservists, or

reserve and auxiliary services, as the case may be under the budgetary

allocations of the defence services.

Admittedly, appellants are not getting their pay and allowances

from the budgetary allocations of the defence services. The entire

expenditure incurred on the Ordnance Factories is debited to the account of

Government of India. So, as per the amended definition the appellants

cannot be equated with the members of armed forces and therefore would

not be entitled to the exemption from payment of professional tax under the Act.

For the reasons stated above, we do not find any infirmity in the impugned order and dismiss these appeals leaving the parties to bear their own costs.

.....J.

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(ASHOK BHAN)

New Delhi;
.....J.
July 26, 2006.

.....
(MARKANDEY KATJU)