
CASE COMMENT: CRITICAL ANALYSIS OF LENIN KUMAR RAY V. M/S EXPRESS PUBLICATIONS (MADURAI) LTD., 2024 INSC 802

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ABSTRACT

The definition of the “Workman” under *Section 2(s) of The Industrial Disputes Act, 1947* (hereinafter referred as “Act”), *inter alia* places embargo on the application of the Act to the Industrial Disputes on the context of the wages of the Workman which is limited to Rs 10,000/- and is probably less than the Minimum Wages determined by the various states in India under *The Minimum Wages Act, 1948* which renders the whole Act nugatory and defeating the object of the Act which was not foreseen by the Division Bench of the Hon’ble Supreme Court of India in *Lenin Kumar Ray v. M/s. Express Publications (Madurai) Ltd.*, The Court was tied by the words of legislation even though the Justice system had been bestowed the power for doing complete justice under Article 142 of the Constitution of India. The definition of Workman under Section 2(s) of the Act imparts unreasonable classification of the workman into supervisory, Managerial or Administrative based on the nature of work assigned to him by the employee which is *in toto* irrelevant to the Jurisprudence of Labour. The decision of the Court is appreciable to be in the corners of law, maintaining Judicial Discipline abiding the *theory of separation of powers* but the Rule of Law being basic tenet of the Constitution, had been defeated on the context of “Lawlessness” rendering the labour to lurch in the hands of the Legislature and Employer, where the Temple of Justice had done the Justice but hadn't placed due diligence in Justice seems to be done.

Keywords: Workman, wages, Industrial Dispute, managerial, administrative capacity, supervisory.

BACKGROUND OF THE CASE

The employee herein was appointed as Junior Engineer on 07.06.1997 and the said post was confirmed on 13.07.1998. Later promoted as Assistant Engineer on 01.05.2000 and the same was regularised on 01.05.2001. Thereafter, he had been relieved from the service on 08.10.2003 with one month notice salary. Having aggrieved he had approached The Labour court, Bhubaneswar in Orissa which had passed award dated 22.09.2010 on the two premises that the Petitioner (the Workman) before the Labour court, falls under the definition of the “Workman” under *Section 2(s) of The Industrial Disputes Act, 1947* (hereinafter referred as “Act”) and had also awarded the Reinstatement with a compensation of Rs. 75,000/- for the back wages. The impugned award was challenged before the High Court of Orissa at Cuttack and the same was partially allowed to the extent of declaring the Petitioner before the Labour Court to fall under the definition of “Workman” under Section 2(s) of the Act. Having aggrieved both the parties preferred for the appeal before the *Hon'ble Supreme Court of India* through *Civil Appeal No. 11709 & 11710 of 2024* and a reportable judgement setting aside the decision of the High Court of Orissa was rendered dated 21.10.2024, *inter alia* observes that the Petitioner before the Labour Court doesn't fall under the definition of “Workman” under Section 2 (s) of the Act.

ARGUMENTS ON BEHALF OF THE EMPLOYEE

The Counsel for the employee had taken recourse of the beneficial construction of the statute when there is a choice of interpretation¹ for the reason, the labour being the weaker section. He had also stressed on the point for the determination of the status of an employee to be an “Workman” under the Act on the basis of the nature of duties done by him and not from the designation imparted to him.² The same argument is also strengthened by the contention that the mere presence of junior would not place the person above in the capacity of managerial or in administrative capacity in relation to the employment.³ Another point upon the surmise of the illegal termination on the context that the employee was neither assigned any reason for termination nor has been given opportunity before. The default rule of reinstatement with

¹ KCP Employees Association v. KCP Ltd., (1978) 2 SCC 42 (India).

² Shard Kumar v. NCT of Delhi, (2002) 4 SCC 49 (India); SK Maini v. Carona Sahu Co. Ltd., (1994) 3 SCC 510 (India).

³ Ananda Bazar Patrika (P) Ltd v. Workmen, (1970) 3 SCC 248 (India).

continuity of service and full back wages⁴ is averred on the context of illegal termination.

ARGUMENTS ON BEHALF OF THE EMPLOYER

The employer placed his arguments on the surmise that the nature of work performed by the employee was Supervisory nature and the wages of the employee at the time of termination was Rs.6805.45/-. It is contended that the employee is not workman as the wage ceiling for the inclusion of an employee under the definition of Workman at the time of the termination was Rs. 1,600/- which was later raised to Rs.10,000/- by an amendment Act and came into effect on 15.09.2010. It was also put forth by the employer that the Appointment letter clearly stipulates for the *termination of service would require one month notice period or one month salary in lieu of notice by either of the parties*. Hence it was justified that the termination was legal, abiding all the provisions of the contract and law.

JUDGEMENT

Limitation by wage ceiling

The Court had arrived at the conclusion based on the wages of the employee at the time of termination was higher than the ceiling fixed by the Section 2(s) of the Act and held that the employee herein is not “Workman” under Section 2 (s) of the Act.

Managerial or Administrative capacity

The Court after placing diligence upon the records pertaining to the examination and cross examination of the employer and employee and also upon the terms of the Employment orders came to the conclusion that employee was not workman for the reason that he himself had stated the nature of work which was found to be of supervisory character and in the cross examination had asserted that he was supervising the work of two engineers. The witness on behalf of the employer also stated that the employee is in managerial capacity and two Junior engineers were appointed under him.

⁴ Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya, (2013) 10 SCC 324 (India); Jasmer Singh v. State of Haryana, (2015) 4 SCC 458 (India).

Process of Termination

The Court after the perusal of the Appointment letter read in consonance with the continuation clause in the promotion letter the court expounded that the termination of the employment was not illegal.

The court negated the contention of the employee for the violations of the section 25F and coupled with 25G and 25H of the Act on the surmise that the employee doesn't come under the definition of "Workman".

ANALYSIS

Fact of Nature of work

It is a settled position of the law that the definition of the Workman has to be analysed from the nature of work performed and not by the designation of the employee. The Counsel for the employee had placed reliance upon the *Ananda Bazar Patrika (P) Ltd v. Workmen*,⁵ where the nature of work was stressed to be decided based upon two tests:

1. The capacity of the employee under question to give directions to his subordinates in the manner of performance of the work;
2. The obligation of the employee under question to scrutinize the works of his subordinates.

Having not proved, the benefit was granted to the situation, that the employee is to be considered as "workman" under the Act. In the present case, such emphasis upon the above two criteria has not been made even after placing due diligence upon the examination and cross examination records of the parties. This constitutes the obscurity in determining the status of the employee whether to be a workman or not, under the Act,

Though it is a settled position of law that the burden is upon the employee to prove whether he is covered under the definition of "Workman" in the Act, the basic tenet of the labour law is surmised upon the maxim *in dubio pro operario* which means that, if a norm can be understood

⁵ Ananda, *supra* note 3.

in more than one way, the interpretation of the norm should be in such a way that it benefits the employee.

The history of the maxim traces to the evolution of principle from *favo debitoris* to *favo debilis*. In Civil Law Principles, *favo debitoris* means for the situation in deciding the dubious cases, the dispute is to be resolved in the favour of debtor. The same has been transformed in civil law from the protection of interpretation based on the obligation of the debtor to the protection based on the contractual situation, which illustrates for the principle of *favo debilis* in which the dubious cases are to be decided in favour of contractors who are in weak position in the contract. This concept of protection in *favo debilis* had diverted into the Labour Jurisprudence which took the form of *in dubio pro operario*.⁶

In the contract of employment between the employer and employee, the employee is always at a disadvantageous position to that of the employer. This makes the permanent leaning of the interpretation towards the interest and benefit of the employee. This Principle was adopted by the *Hon'ble Supreme Court of India* in the form of Beneficial Construction towards the welfare legislations in the field of labour law. Unlike the Courts in England which is bifurcated into Court of Law and Court of Equity, the Indian courts serve both as Court of Law and Equity. When the law is silent on the matter, it is the principles of equity that invites the Courts to do Complete Justice and the same is strongly engrained in the Indian Constitution under *Article 142*, in the name of *Complete Justice*.

The Apex Court had held Transport Engineers; designated supervisors namely Blending Supervisors; Foreman; Depot Superintendents in supervisory role and also District Engineers as workman⁷; Inspectors and salesmen as workmen⁸; manager who does the work of writing ledgers, cash book and file correspondence to be workman⁹; even the senior clerks who does supervisory duties are also held to be workman¹⁰

This court equally in other instances had held that Employee working in the head office are not

⁶ Jimena Ruy-López Schmidt, *Rights and Principles: The Web*, SSRN (Nov.20, 2025, at 10:00 IST), https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID3834781_code4521657.pdf?abstractid=3834781&mirid=1.

⁷ *Burmah Shell Storage and Distribution Co. of India Ltd., v. Association*, (1970) 3 SCC 378 (India).

⁸ *Western India Match Co. v. Workmen*, AIR 1964 SC 472 (India) ; *Indian Farmers Fertilizers Cooperative Ltd v PO Labour Court Chandigarh* (2000) 2 LLN 790 (P&H)(DB) (India).

⁹ *Indian Iron & Steel Co. Ltd., v. Workmen*, AIR 1958 SC 130 (India).

¹⁰ *South India Bank Ltd., v. AR Chacko*, AIR 1964 SC 1522 (India).

workman¹¹; head clerk not workman¹²; Blending Supervisors and Fuelling Superintendents not workman¹³. The conclusion towards the definition of Workman purely depends on the question of fact, the nature of work and duties performed by the employee and varies based on the facts and circumstances of each case. This lingering application of the Act to employees pose a serious uncertainty in the Justice administration.

Concept of Employee / Workman

Traditionally the employer employee relationship had evolved on the context of procuring persons to do a particular work in a manner as directed by the employer. The Employer being the person who invests his capital, procures labour for the conversion of the raw material into finished goods. With the development in the pattern and organisational setup of the Employer, from individual person to group contribution to the capital, the extent and degree of control to be exercised upon the labour also differed.

The organisational setup envisaged for the group of persons appointed to control the capital, for which the remuneration is paid as share in the profit. Thus, a set of people was segregated into labour whose remuneration is irrespective of the profit of the Employer and is measured based on the quantum of work done and not on the profit yield. This draws a thin silver line between persons working in the organisation in the administrative or managerial or supervisory capacity and the workman where the former exercises control over the Capital of the Organisation of the employer but the later not. This test of control over the Capital will be suitable in segregating the employee in supervisory capacity to that of the employee as workman.

In an organised establishment there exists different tier of administration in each level of the Pyramid and the employee in anyone of the levels in the organisational set up thereby *ipso facto* imparting the colour of supervisory character to the employee would render whole concept of employer-employee relationship to be applicable only to the persons placed in the bottom most level of the workforce is untenable in Labour Jurisprudence.

¹¹ Sitaram Sugar Mills Ltd., v. Workmen, AIR 1966 SC 1670 (India).

¹² Bihar State Road Transport Corpn., v. State of Bihar, (1970) 1 SCC 490 (India).

¹³ Burmah, *supra note* 7.

The employee in each level of the organisational setup of the establishment exercises a particular degree of control over their subordinates and the gradient of control over the subordinates, apart from the work assigned to them, increases in each step, up of the organisational pyramid of the establishment where the Apex level would exercise whole control over the activities performed by their subordinates. Thus, a line of separation is to be drawn among the workforce where the cadre of supervisory or managerial or administrative is to be circumscribed to the persons exercising control over the capital and the rest to be considered as workman of the organisation.

The Act being the gift of colonialism a diligent emphasis upon the definition of “Workman” under *Section 230 of the Employment Rights Act 1996* of the United Kingdom.

(1) In this Act “employee” means an individual who has entered into or works under (or,

where the employment has ceased, worked under) a contract of employment. ¹⁴

(3) In this Act “worker” (except in the phrases “shop worker” and “betting worker”)

means an individual who has entered into or works under (or, where the employment has ceased, worked under)—

(a) a contract of employment, or

(b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual; and any reference to a worker’s contract shall be construed accordingly. ¹⁵

The above definition would suffice to mean that the term “employee” has more restricted meaning than the term “Worker” in the UK whereas it is vice versa in India. Moreover, this distinction in the definition between the “employee” and “Worker” in UK, is not about

¹⁴ The Employment Rights Act 1996, § 230(1), c.18, Act of Parliament, 1996 (United Kingdom).

¹⁵ *Id.* at § 230(3).

narrowing or broadening the vision of the definition rather it only extends the scope of application of the term “Worker” to also contracts other than *contract of employment*. The commonality between the employee and the worker is the *Contract of Employment* which is based on the concept of “Contract of service”. Unlike India, any person who is employed by the employer for contract of service would certainly fall under the definition of both “employee” and “worker” irrespective of the nature of work.

Implications of the embargo

The section 2(s) (iii) of the Act places embargo upon the employee employed in supervisory capacity, to be covered under the definition of salary for which his wages after the 2010 amendment should not be more than Rs.10,000/-. This wage limitation causes a legal conundrum when compared with the Minimum wage set by the concerned states under the Minimum wages Act, 1948. This wage ceiling in Section 2(s) is on an average less than the Minimum wages set by the concerned Authorities¹⁶ is as follows:

Table 1 depicts the range of the lowest and the highest of the minimum wages in the respective States.

Sl. No.	State	Minimum wages Range (in Rupees)	Sl. No.	State	Minimum wages Range (in Rupees)
1.	Andaman and Nicobar Islands ¹⁷	16,666-24,128	19.	Ladakh ¹⁸	13,500-25,050
2.	Andhra Pradesh ¹⁹	11,798-15,951	20.	Madhya Pradesh ²⁰	10,225-13,760
3.	Arunachal	7,200-6,000	21.	Maharashtra ²²	12,078-18,807

¹⁶ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:01 IST), <https://www.simpliance.in/minimum-wages>.

¹⁷ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:05 IST), <https://www.simpliance.in/minimum-wages/andaman-and-nicobar-islands>.

¹⁸ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:07 IST), <https://www.simpliance.in/minimum-wages/ladakh>.

¹⁹ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:11 IST), <https://www.simpliance.in/minimum-wages/andhra-pradesh>.

²⁰ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:14 IST), <https://www.simpliance.in/minimum-wages/madhya-pradesh>.

²² Minimum Wages, Simpliance (Dec. 30, 2023, at 23:19 IST), <https://www.simpliance.in/minimum-wages/maharashtra>.

	Pradesh ²¹				
4.	Assam ²³	10,097-25,060	22.	Manipur ²⁴	6,750-8,190
5.	Bihar ²⁵	10,712-16,536	23.	Meghalaya ²⁶	12,570-17,580
6.	Chandigarh ²⁷	13,834-14,619	24.	Mizoram ²⁸	12,600-21,900
7.	Chhattisgarh ²⁹	10,428-13,158	25.	Nagaland ³⁰	5,280-7,050
8.	Dadra and Nagar Haveli ³¹	12,376-12,922	26.	Odisha ³²	13,560-18,060
9.	Daman and Diu ³³	11,466-12,012	27.	Puducherry ³⁴	11,131-11,695
10.	Delhi ³⁵	18,066-23,836	28.	Punjab ³⁶	10,996-13,705
11.	Goa ³⁷	13,884-17,030	29.	Rajasthan ³⁸	7,410-9,334

²¹ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:16 IST), <https://www.simpliance.in/minimum-wages/arnachal-pradesh>.

²³ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:21 IST), <https://www.simpliance.in/minimum-wages/assam>.

²⁴ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:24 IST), <https://www.simpliance.in/minimum-wages/manipur>.

²⁵ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:26 IST), <https://www.simpliance.in/minimum-wages/bihar>.

²⁶ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:31 IST), <https://www.simpliance.in/minimum-wages/meghalaya>.

²⁷ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:33 IST), <https://www.simpliance.in/minimum-wages/chandigarh>.

²⁸ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:35 IST), <https://www.simpliance.in/minimum-wages/mizoram>.

²⁹ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:39 IST), <https://www.simpliance.in/minimum-wages/chhattisgarh>.

³⁰ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:41 IST), <https://www.simpliance.in/minimum-wages/nagaland>.

³¹ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:44 IST), <https://www.simpliance.in/minimum-wages/dadra-and-nagar-haveli>.

³² Minimum Wages, Simpliance (Dec. 30, 2023, at 23:47 IST), <https://www.simpliance.in/minimum-wages/odisha>.

³³ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:49 IST), <https://www.simpliance.in/minimum-wages/daman-and-diu>.

³⁴ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:50 IST), <https://www.simpliance.in/minimum-wages/puducherry>.

³⁵ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:52 IST), <https://www.simpliance.in/minimum-wages/delhi>.

³⁶ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:54 IST), <https://www.simpliance.in/minimum-wages/punjab>.

³⁷ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:56 IST), <https://www.simpliance.in/minimum-wages/goa>.

³⁸ Minimum Wages, Simpliance (Dec. 30, 2023, at 23:58 IST), <https://www.simpliance.in/minimum-wages/rajasthan>.

12.	Gujarat ³⁹	12,376-13,234	30.	Sikkim ⁴⁰	15,000-16,950
13.	Haryana ⁴¹	11,001-14,041	31.	Tamil Nadu ⁴²	13,581-22,055
14.	Himachal Pradesh ⁴³	11,130-14,490	32.	Telangana ⁴⁴	12,094-15,998
15.	Jammu and Kashmir ⁴⁵	8,086-14,352	33.	Tripura ⁴⁶	7,779-12,883
16.	Jharkhand ⁴⁷	11,507-20,199	34.	Uttar Pradesh ⁴⁸	10,701-13,186
17.	Karnataka ⁴⁹	13,528-20,478	35.	Uttarakhand ⁵⁰	12,391-15,275
18.	Kerala ⁵¹	15,866-25,594	36.	West Bengal ⁵²	9,531-13,595

This expounds that no workman, even not in the supervisory capacity will be covered by the Act, which would seriously create a lawless situation in the realm of labour law, for maintaining Industrial Peace and Harmony. This imposition of wage ceiling in the application of the Act to

³⁹ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:10 IST), <https://www.simpliance.in/minimum-wages/gujarat>.

⁴⁰ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:13 IST), <https://www.simpliance.in/minimum-wages/sikkim>.

⁴¹ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:16 IST), <https://www.simpliance.in/minimum-wages/haryana>.

⁴² Minimum Wages, Simpliance (Dec. 30, 2023, at 22:18 IST), <https://www.simpliance.in/minimum-wages/tamil-nadu>.

⁴³ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:21 IST), <https://www.simpliance.in/minimum-wages/himachal-pradesh>.

⁴⁴ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:23 IST), <https://www.simpliance.in/minimum-wages/tehangana>.

⁴⁵ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:25 IST), <https://www.simpliance.in/minimum-wages/jammu-and-kashmir>.

⁴⁶ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:28 IST), <https://www.simpliance.in/minimum-wages/tripura>.

⁴⁷ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:33 IST), <https://www.simpliance.in/minimum-wages/jharkhand>.

⁴⁸ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:35 IST), <https://www.simpliance.in/minimum-wages/uttar-pradesh>.

⁴⁹ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:37 IST), <https://www.simpliance.in/minimum-wages/karnataka>.

⁵⁰ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:41 IST), <https://www.simpliance.in/minimum-wages/uttarakhand>.

⁵¹ Minimum Wages, Simpliance (Dec. 30, 2023, at 22:43 IST), <https://www.simpliance.in/minimum-wages/kerala>.

⁵² Minimum Wages, Simpliance (Dec. 30, 2023, at 22:46 IST), <https://www.simpliance.in/minimum-wages/west-bengal>.

the workman defined there, would totally render the whole Act nugatory and would remain a dead letter.

Even for the sake of arguments, if such imposed wage ceiling is revised in accordance with the Minimum wages set, that would create a class among the employees where it would lead to three groups:

1. Employee in managerial or administrative capacity
2. Employee in supervisory capacity having wages above the ceiling set in the Act
3. Employee in supervisory capacity having wages below the ceiling set in the Act
4. Employee not having supervisory capacity

This class separation of the Labour Force not only creates a disharmony between the employer and employee but also causes friction among the workers themselves, which would undermine the principle of collective representation of Labour Force envisioned to eradicate Social Injustice, in par with the High handed employer.

Inequality

The Object of the Act places much emphasis *inter alia* on the “Industrial Peace” and had worked for achieving the same by setting up various dispute resolution forums in the Act.⁵³ The occurrence and resolution of Industrial Disputes and the consequent maintenance of Industrial peace doesn't have a nexus with the nature of work performed by the employee or based on the wages drawn by the employee. Even an employee placed in *managerial* or *administrative capacity* or *supervisory capacity* or who is drawing more wages relatively is always at the disadvantageous position and under the caprice of the employer. Neither the nature of work nor the higher wages drawn exonerate the employee from the disadvantageous position with that of the employer. This unreasonable classification is directly hit by the Article 14 of the Constitution where the Labour legislation intended for the eradication of social inequalities is paving way for the aggravation of inequality among the same class. The legislation intended to maintain harmony would precipitate tyranny by the employer.

⁵³ The Statement of Objects and Reasons, Industrial Disputes Bill 1946, (1946).

Any classification in law should have intelligible differentia and should have *nexus with the object sought to be achieved*.⁵⁴ The employee, employed by the employer, under the contract of employment form one class. The segregation of the employee into different categories based on the wages drawn and also placing them in different footing in the different labour welfare legislations doesn't have *nexus with the object sought to be achieved*. Article 14 of the Constitution of India guarantees *equal protection of laws*.

“Rule of Law” being the hallmark of our Constitution not only envisages equality before law, but also fosters the application of a law to all of the subjects of the State, which would vouch for the Supremacy of law. The lawless situation will precipitate tyranny. The equality before law is the basic feature of Indian Constitution⁵⁵ and the treatment of equals as unequals renders the legislation *ultra vires* the Constitution.⁵⁶ This kind of segregation in section 2(s) of the Act, leave a group of employee who doesn't meet the necessary conditions of the legislation for considered to be “workman”, stranded in a lawless state where, even being a part of labour force, the protection that is imparted to the persons of the same class is not provided for them. This creates a void in the administration of the Social Justice in Labour Jurisprudence.

*“We are not final because we are infallible, but we are infallible only because we are final.”*⁵⁷

Though the above discussions would not find root in the present case, for the reason that the Statutes are presumed constitutionally valid and no plea of constitutional validity of the section 2(s) was not put forth, the Hon'ble Supreme Court, being the highest court on the land, guardian of the Constitution and is also bestowed with the power of doing “Complete Justice” under Article 142, which is a cornerstone of Justice Administration, cannot be constrained by the technicalities of law. From the words of Jackson J, it can be inferred that being the highest court of law in the land, Judicial activism can be used as an effective tool for the administration of infallible Justice.

*“Justice must not only be done, but must also be seen to be done”*⁵⁸

⁵⁴ S Seshachalam v. Bar Council of TN, (2014) 16 SCC 72 (India).

⁵⁵ Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461 (India).

⁵⁶ MG Badappanavar v. State of Karnataka, AIR 2001 SC 260 (India).

⁵⁷ Brown v. Allen, 344 US 443, 540 (1953).

⁵⁸ Rex v. Sussex Justices, (1924) 1 KB 256.

Law doesn't operate in vacuum and every interpretation and application of law has serious implications upon the social order and harmony, for the reason Law is considered to be an effective tool for social change.⁵⁹ When the whole Labour Jurisprudence strives for the eradication of Social Injustice and to place the Labourers in par with the Employers to establish a Socialistic and Egalitarian society, the law made in the name of people's will would not tie the hands of the Judiciary. This would be the ground for effective utilisation of the Judicial activism, when the law fails to do Justice. Though the justice is done in the present case in relation with law, the lawlessness created, when not foreseen by the Judiciary, render impugned law as a tool for tyranny.

CONCLUSION

In the present case, the law has been rightly applied to the facts of the case and the decision has been rendered within the four corners of law, but the same had set a wrong path for the employers to choose a tyrannical path by pleading lawlessness as a defence in matter of grievance redressal of the aggrieved labour, thereby precipitating the horror of Laissez-faire. The unreasonable classification of the Legislature leading to lawlessness and Judiciary remain the silent spectator, for the reason of Judicial Discipline in not transgressing the will of the people and Theory of Separation of Powers, at the cost of the Complete Justice of disadvantageous labour.

The matter will not end here for the same is inherited in the forthcoming laws which is to replace the Act through *Section 2(zr) (iv) of the Industrial Relations Code, 2020* having the same exclusion clause with slight difference as to the grant of discretion to the central government in increasing the wage ceiling from time to time. This nominal change doesn't answer to the lawlessness created. The ball is in the court of Judiciary, the temple of Justice, to set the needle right, so as to render protection to the Labour.

⁵⁹ Ishwara Bhat P, Law and Social Transformation in India 10 (Eastern Book Company, 1st ed. Reprint 2012)