

REVISIONAL CIVIL.

Before Mr. Justice Kanhaiya Lal.

MUTSADDI LAL (DEFENDANT) *v.* BHAGWAN DAS
(PLAINTIFF).*

1925
July, 9.

Act No. IX of 1908 (Indian Limitation Act), schedule 1, articles 7 and 102—“ Weighman ”—Suit for arrears of wages—Limitation.

A weighman employed to work at a shop is not a household servant, nor an artisan, nor a mere labourer. A suit, therefore, brought by such a person for the recovery of wages due to him will be governed as to limitation, not by article 7 of the first schedule to the Indian Limitation Act, 1908, but by article 102 of the same schedule. *Gordon v. Jennings* (1) and *Morgan v. London General Omnibus Co.* (2), referred to.

THE plaintiff in this case, who was a weighman employed in the shop of the defendant, sued in the Court of Small Causes to recover arrears of wages. The court gave him a decree for a period of 3 years previous to the suit at a rate of Rs. 13 per mensem. Against this decree the defendant applied in revision to the High Court, contending that the court below had wrongly applied article 102 of the first schedule to the Indian Limitation Act to the case, whereas article 7 should have been applied and that the plaintiff was not entitled to a decree for more than one year's arrears under the latter article.

Munshi *Bhagwati Shankar*, for the applicant.

Munshi *Sarkar Bahadur Johari*, for the opposite party.

KANHAIYA LAL, J.—The plaintiff was employed as a weighman in the shop of the defendant on a fixed monthly remuneration of Rs. 13 per mensem. He claimed his wages from the 12th of February, 1921 to the 2nd of February, 1922, which the court below has allowed for a period of three years prior to the suit.

* Civil Revision No. 68 of 1925.

(1) (1882) 9 Q.B.D., 45.

(2) (1883) 12 Q.B.D., 201.

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The question for determination is whether article 7 or 102 is applicable to the suit. Article 7 applies to suits for the wages of a household servant, artisan or labourer and provides a limitation of one year from the date when the wages accrue due. Article 102 applies to a suit for wages not otherwise provided for and allows a period of three years from the date when the wages accrue due. As stated by Stroud (Judicial Dictionary, 2nd edition, p. 2205) wages include payment for any services; yet, in general, the word salary is used for payment of servants of a higher class and wages is confined to the earnings of labourers and artisans; *Gordon v. Jennings* (1). A labourer is defined as a man who digs and does other work of that kind with his hands. But a carpenter is not called a labourer because though he works with his hands his work requires skill and training. *Morgan v. London General Omnibus Co.* (2).

A weighman employed to work at a shop is not a household servant, nor is he an artisan. He can not be treated as a mere labourer employed to do task work, that is, to hold the scales and weigh goods in a shop for a monthly salary. He can be asked to do other work of the shop when free. He has to count and add up, and may have also perhaps to calculate the price on the total quantity weighed, and his work, therefore, cannot be treated as purely manual labour so as to make article 7 of the Act applicable. He may be regarded in fact as a shop-keeper's assistant, and article 102 has been rightly applied to the case. The arrears have been long due and interest thereon has been properly allowed. The application, therefore, fails and is dismissed with costs.

Application dismissed.

(1) (1882) 9 Q.B.D., 45.

(2) (1883) 12 Q.B.D., 201.