

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. 2749 OF 2002

STATE OF HARYANA

Appellant (s)

VERSUS

VIJENDER SINGH

Respondent(s)

(With office report )

Date: 09/12/2004 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE  
HON'BLE MR. JUSTICE B.P. SINGH  
HON'BLE MR. JUSTICE S.B. SINHAFor Appellant(s) Mr. Praveen Kr. Rai, Adv.  
Ms. Kavita Wadia, Adv.For Respondent(s) Mr. K.L. Nandwani, Adv.  
Mr. Sameer Nandwani, Adv.  
Mr. Debasis Misra, Adv.UPON hearing counsel the Court made the following  
O R D E R

Heard learned counsel for the parties.

The appeal is dismissed in terms of the signed order.

(PAWAN KUMAR)

(PREM PRAKASH)

COURT MASTER COURT MASTER

(signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2749 OF 2002

STATE OF HARYANA... APPELLANT

VERSUS

VIJENDER SINGH... RESPONDENT

O R D E R

Heard learned counsel for the parties.

The Industrial Tribunal-cum-Labour Court, Panipat by an award dated 12th of July, 1998 held the retrenchment of the respondent-workman as illegal and void hence directed his reinstatement.

While doing so it came to the factual conclusion that the workman-respondent had worked for 240 days continuously in the preceding year before his retrenchment. It also rejected the contention of the appellant herein that the Public Works Department of the State is not an industry by relying on a judgment of this Court in Executive Engineer (State of Karnataka) vs. K. So masetty and others, AIR 1997 SC 2663. In a challenge made to the said award before the High Court of Punjab and Haryana the appellant herein did not question the finding of the Industrial Tribunal/Labour Court in regard to the appellant being an industry. The challenge was confin

ed to the question of fact whether the respondent-workman had in fact completed 240 days as required under law. That challenge has been negatived by the High Court, therefore, there is a concurrent finding of the fact against the appellant with which we are not inclined to interfere.

The learned counsel, however, contended that in C.A.No.6471/2002 a Bench of this Court by its order dated 5.10.2004 has referred the question whether the Forest Department of the State Government is an industry or not to a Constitution Bench, therefore, this case also may be referred to the Constitution Bench. In support of this contention he pointed out that this Court while granting leave had noted the question whether the Public Works Department is an industry and whether the Labour Court has jurisdiction. Therefore, this question may be deferred till the judgment of the Constitution Bench. This argument of the learned counsel for the appellant cannot be accepted because neither before the High Court nor in this appeal the question of Public Works Department not being an industry has been raised at all. In view of the said fact that there is no such issue arising on the pleadings in this appeal we think it is not necessary to go into that question or await the judgment of Constitution Bench in C.A.No.6471/2002. With the above observation this appeal is dismissed.

.....J.  
( N. SANTOSH HEGDE )

.....J.  
( B.P. SINGH )

.....J.  
( S.B. SINHA )  
New Delhi,  
December 09, 2004.