

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). 6779 OF 2009

U.T. CHANDIGARH & ANR.

Appellant (s)

VERSUS

SAMPAT & ORS.

Respondent(s)

(With prayer for interim relief)
 WITH SLP(C) NO. 10981 of 2013
 (With office report)
 Civil Appeal NO. 6780 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6782 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6783 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6784 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6785 of 2009
 (With office report)
 Civil Appeal NO. 6786 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6787 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6788 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6789 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6790 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6791 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6792 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6793 of 2009
 (With prayer for interim relief and office report)
 Civil Appeal NO. 6794 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6795 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6796 of 2009
 (With prayer for interim relief)
 Civil Appeal NO. 6797 of 2009
 (With prayer for interim relief and office report)
 Civil Appeal NO. 6798 of 2009
 (With office report)

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Civil Appeal NO. 6799 of 2009
 (With office report)
 Civil Appeal NO. 6800 of 2009
 (With office report)
 Civil Appeal NO. 6801 of 2009
 (With office report)
 Civil Appeal NO. 6802 of 2009
 (With office report)
 Civil Appeal NO. 6803 of 2009
 (With office report)
 Civil Appeal NO. 6804 of 2009
 (With office report)
 Civil Appeal NO. 6805 of 2009
 (With office report)
 Civil Appeal NO. 6807 of 2009
 (With office report)
 Civil Appeal NO. 6808 of 2009

(With office report)
Civil Appeal NO. 6810 of 2009
(With office report)
Civil Appeal NO. 6811 of 2009
(With office report)
Civil Appeal NO. 6812 of 2009
(With office report)
Civil Appeal NO. 6813 of 2009
(With office report)
Civil Appeal NO. 6814 of 2009
(With office report)
Civil Appeal NO. 6815 of 2009
(With office report)
Civil Appeal NO. 6816 of 2009
(With office report)
Civil Appeal NO. 6817 of 2009
(With office report)

Date: 03/04/2014 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE DIPAK MISRA

For Appellant(s)

Mr. Jatinder Kumar Bhatia, Adv.
Mr. Sudarshan Singh Rawat
Ms. Kamini Jaiswal
Mr. Jogy Scaria
Mr. Jatinder Kumar Bhatia

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For Respondent(s)

Mr. P.N. Puri, Adv.
Mrs. Nanita Sharma, Adv.
Mr. Ugra Shankar Prasad, Adv.
Mr. Arvind Kumar Gupta, Adv.
Mr. K.K. Mohan, Adv.
Mr. A.P. Mohanty, Adv.
Mr. K.L. Taneja, Adv.
Mr. Debasis Misra, Adv.
Mr. A.S. Pundir, Adv.
Mr. Subhasish Bhowmick, Adv.
Ms. Kamini Jaiswal, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted in SLP(C) No. 10981 of 2013.

The appeals are dismissed in terms of signed order.

[Neeta]

Sr. P.A.

(Signed order is placed on the file)

[Usha Sharma]

Court Master

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6779 OF 2009

U.T. CHANDIGARH & ANR.

Appellant(s)

VERSUS

SAMPAT & ORS.

Respondent(s)

WITH C.A.NO. 4500/2014
(@SLP(C) NO. 10981 of 2013)
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O R D E R

Leave granted in SLP(C) No. 10981/2013.

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These appeals have been preferred by Chandigarh Administration, U.T. Chandigarh & Anr. against the common judgment dated 26th August, 2004 passed by Punjab and Haryana High Court in different writ petitions. By the impugned common judgment the High Court dismissed the writ petitions preferred by appellants and affirmed the judgment passed by Central Administrative Tribunal in different original applications whereby the Tribunal directed the appellant to regularise the service of contesting respondents and to pay pension to those who have already retired and family pension to the widows of such employees who have already died.

The contesting respondents and/or spouse of the widows were appointed in the Chandigarh Administration

against different menial posts like coolies, malies and beldars etc. for maintenance of the Union Territory of Chandigarh and were working under the Public Works Department as daily wages employees. Earlier some of the employees who were similarly situated moved before the High Court for regularisation of their services and finally the matter reached up to this Court. Pursuant to the directions given by this Court, the Union of India

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framed the scheme for regularisation of services in the year, 1996, relevant portion of which reads as follows: -

For work-charged employees:

"i) All the works establishment [excluding office of Ministerial Clerical and drawing cadres below the level of Junior Engineers] engaged in the construction/execution of maintenance work shall be called 'Work Force'. The work force includes buildings, roads, public health activities comprising augmentation of water supply, canals, drainage, electrical and electricity etc. The 'work division' shall be a unit for casual or daily wage work force and a 'circle' for work charged establishment. Separate cadre and seniority list for each category shall be maintained in the Division and Circle as the case may be.

ii) Workers engaged on jobs, which are likely to be of a short duration, i.e., less than 240 days in a year, will be terminated on completion of work. No seniority list of such workers will be required to be maintained.

iii) Workers who have completed five years service as on 31st August, 1995 will be considered for regularization against the available regular posts subject to the fulfillment of requirements as laid down in the Recruitment Rules for the post in question, if they were recruited before 6.1.1992, the date on which a ban was imposed

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on the recruitment or daily/casual workers.

iv) Since a complete ban on recruitment of work charged

casual/daily wage employees was imposed by Chandigarh Administration, those recruited in contravention of this policy decision after this date i.e. 6.1.1992 will be considered for their regularization only on the assessment of justification/requirements on the basis of norms approved for the continued nature of work and attaching the specific approval of Home Department, Chandigarh Administration.

For Casual/Daily Wagers

v) Workers working as Casual labourers in works which have more or less fixed period of completion will be eligible for payment of benefits as admissible to them under rules. However, they will not be considered for regularization automatically. Their requirement has to be reassessed after commissioning the work. Thus, the workers will be liable to be retrenched on completion of works except categories in limited numbers who are required for the operation and maintenance of the completed works. In their cases specific approval of the Home Department should be taken.

vi) Daily wage employees who have completed 10 years or more service as on 31.8.1995 shall be considered for regularization w.e.f. 31.8.1995 on

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the availability of posts. Such employees shall be entitled for minimum of the scale w.e.f. the date of their regularization. On regularization, these employees shall be liable for transfer any where within the Engineering Department, U.T. Chandigarh.

vii) In respect of all such daily wages employees, who have not yet completed 10 years service, a special review should be carried out at the level of Head of Department regarding their requirement.

viii) In the case of those employees whose services are no longer required and have been taken after 6.1.1992 and specific approval of Home Department, Chandigarh Administration does not exist, they may be relieved of their duties at the earliest possible."

Subsequently on being not regularized, some of the

work charge employees/casual/daily wagers moved before
this Court in "Union of India and others Versus Dharma Pal
and Others" reported in (1996) 4 SCC 195. In the said

case the Court made following observations and directions:

"5. In view of the rival contentions, the only question is whether the appellant would be permitted to proceed in the light of the scheme framed by them or give direction to continue to pay, as directed by the Tribunal. After giving due

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consideration to the respective contentions, we think that the appropriate course would be to give approval to the scheme framed by the appellants. In view of the settled law by recent decisions all the daily wage employees are required to be regularized in accordance with the rules in vogue following the principles of rules of recruitment, reservations and existence of vacancies. Admittedly, there are no rules operating in the field. As a result, all of them have been continuing on daily wage basis. It is true that CAT at Chandigarh had on earlier occasion directed to pay to 88 daily wage employees D.A., H.R.A. and C.C.A. Instead of the repetition, we think that the scheme requires enforcement.

6. In view of the scheme now framed, the appellants are directed to regularize all those who have completed the prescribed period of days, viz., 240 days against the existing vacancies applying the rules of reservation in the order of seniority in the respective categories mentioned in the scheme. Such regularized employees would be entitled to all the regular payment at the scale of pay prescribed to the Central Government employees. Those who could not be regularized are directed to be regularized in the order of seniority as and when vacancies arise. Work would be continued to be taken from them as long as the work exists. Even those who were engaged as daily wage/casual labour, who could not complete 240 days but were required to be

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retrenched, the procedure prescribed for retrenchment under the Industrial Disputes Act should be followed. A list of them in the order of seniority should be maintained. Last-

come first-go principle should be followed in that behalf. As and when vacancies arise or need for the work arises, they should be called for work immediately without asking them to get their names sponsored by the Employment Exchange. The daily wage workers/casual workers who are not regularized and work is taken from them are entitled to minimum of scale of pay prescribed for that post. In addition to that, they are also entitled to 60% of the D.A. at Punjab pattern which is being followed in all other cases. The payment to all the candidates whose service are regularised/continuing on daily wage/casual labour shall be calculated from one year prior to the date of filing the application in the Central Administrative Tribunal, Chandigarh. The appellants are directed to pay the same within a period of four months from to-day."

In spite of the Scheme for regularisation framed by Union of India and observation/direction given by this Court in 'Dharma Pal', services of a number of work charge employees/casual/daily wagers, including the respondents were not regularized. Being so, the individual respondents moved before the CAT filing original applications for regularisation of their services and pensionary benefits.

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The Tribunal noticed the scheme framed by the Union of India and further noticed that the appellants had not alleged that the appointments of respondents were irregular or illegal and in spite of liberty given by this Court in 'Dharma Pal', respondents have not been retrenched. On the other hand they have been allowed to continue in service for more -than 15 to 20 years by that time. Tribunal by different Orders passed from time to time allowed the original applications, directing the appellants to regularise the services of work charge employees/casual/daily wagers and pay them the pensionary benefits. In application filed by widows who claimed for family pension, suitable orders were passed in their favour by directing regularisation of services of the

deceased employees and to pay the family pension to the widows. The aforesaid orders were challenged before the High Court in different writ petitions which were dismissed by the impugned common judgment.

Learned counsel appearing for the appellant submitted that there are no such vacancies available for regularisation of services of the respondents. However, it has been accepted that Union of India-appellants have

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framed scheme for regularisation of services of work charge employees/casual/daily wagers who work in PWD. On

the other hand according to the learned counsel for the respondents a large number of work charge employees/casual/daily wagers have been regularised. It has also

been informed that all the respondents are getting salary in the regular scale of the post of which they are performing the duties including the dearness allowance as per decision of this Court in 'Dharma Pal'. Aforesaid fact has not been disputed by the appellants.

It is not in dispute that now all the respondents have completed much more than 25 years of service under the appellants. In spite of liberty is given to the appellants, services of respondents have not been retrenched as the appellants need the services of respondents who are still functioning as work charge employees/casual/daily wagers. In view of such fact we are of the opinion that the Tribunal was justified in directing the respondents to regularise the services of work charge employees/casual/daily wagers.

It has been brought to our notice that the employees working in the 'work charge establishment' of CPWD are

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guided by CPWD Manual. Volume 3 of the CPWD Manual deals with the period of retrenchment of employees of the work charge establishment, their terminal benefits including pension and gratuity under the Liberalised Pension Rules

1950. That be so, we find no reason to interfere in the impugned judgment dated 26th August, 2004 passed by the High Court of Punjab and Haryana at Chandigarh. The appeals are fit to be rejected.

However, we make it clear that if no post is available in the regular establishment, the employees may continued in the work charged establishment but they will be entitled to full salary which they are already drawing including dearness allowance and the pensionary benefits to which they are entitled under the 'CPWD Work Charged Establishment Manual and Rules'. Those who have been already regularized in the regular establishment are entitled for the benefits of a regular employee of regular establishment including the gratuity and pension which they are entitled as per Rules. Widows shall get the family pension. Those who have retired from service shall get pensionary benefits. The interim order dated 7th March, 2005 passed by this Court is vacated. The appellants are directed to expedite the regularisation of service of those respondents who have not yet been regularised and pay pension, if not yet made. The appeals are dismissed but with aforesaid directions to the appellants.

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.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

.....J.
(DIPAK MISRA)

NEW DELHI;
3rd April, 2014