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SLP(C)No. 4719 OF 2001

ITEM No.53

Court No. 6

SECTION XV  
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.4719/2001

(From the judgement and order dated 31/08/1999 in WA 1245/99  
of The HIGH COURT OF A.P AT HYDERABAD)

SUPERINTENDING ENGINEER, A.P.

Petitioner (s)

VERSUS

A. VASARAIAH

Respondent (s)

(With prayer for interim relief)  
( With Appln(s). for c/delay in filing SLP )

Date : 07/09/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU  
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Petitioner (s)

Mr. Guntur Prabhakar,Adv.

For Respondent (s)

Mr. A.T.M. Sampath,Adv.

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

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.....L.....I.....J  
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
L.....T.....T.....T.....T.....T.....T.....T.....T.....R  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001@@  
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(Arising out of Special leave petition(C) No.4719/2001)

Supertintending Engineer, A.P. ...Appellant

Versus

A. Vasaraiah ...Respondent

O R D E R

.SP3

.....L.....I.....J  
Leave granted.

The grievance of the respondent is that he was working on the establishment of the appellant as Head Mazdoor from 1.9.1975 and that the nature of duties of the Work Inspector and the Head Mazdoor are one and the same, therefore, he sought for the relief for either promotion or re-designation as Work Inspector-IV in the pay scale of Rs.410-625 at par with his juniors with all consequential benefits.

The Labour Court which examined the matter adverted to the evidences produced before it and did not give any finding whether the work done by the Head Mazdoor and the Work Inspector are identical or not. However, proceeding on the basis that one G.J. Shanti

Kumar working in another division had been given such benefits, the respondent is also entitled to the same relief. But the basis upon which the Labour Court did so is that Shanti Kumar was junior to the respondent but this aspect could not had been gone into in that manner by the Labour Court. Of course, Shanti Kumar and respondent were working in different divisions, hence the question of either Shanti Kumar being junior to the respondent or the respondent being senior to him would not arise at all and the Labour Court merely stating that inter-se seniority depends upon the date of appointment is neither here nor there because undoubtedly the inter-se seniority in the same division would depend upon the date of appointment but that was not the position in this case.

In the case of Shanti Kumar, in the circumstances, there is no finding as to the nature of the duties discharged by him and merely on the ground that some

other person in a different division has been given the benefit of becoming the Work Inspector-IV, such a benefit could have been extended to the respondent.

In that view of the matter, the Labour Court clearly erred in giving relief to the respondent. The High Court did not examine this aspect of the matter when the same was challenged in a Writ petition and dismissed the same without going into the questions raised before it. Hence, we allow this appeal and set aside the orders made by the High Court and the Labour Court and dismiss the claim filed by the respondent. The appeal is allowed accordingly.

.SP1

.....J  
[ S. RAJENDRA BABU ]

.....J  
[DORAISWAMY RAJU]

New Delhi,  
September 10, 2001.