

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). 2238 OF 2006

STATE OF KARNATAKA & ORS.

Appellant (s)

VERSUS

SRI PUTTAPPA(DEAD) BY LRS. & ORS.
(With appln(s) for exemption from filing O.T.)

Respondent(s)

WITH
SLP(C) NO. 9160 of 2006

Civil Appeal NO. 3056 of 2006
(With office report)

SLP(C) NO. 5839 of 2012
(With appln.(s) for c/delay in filing SLP and bringing on record the LRs.
of deceased respondent and c/delay in filing appl. For bringing LRs. on
record and with office report)

SLP(C) NO. 9501 of 2012
(With appln.(s) for c/delay in filing SLP)

SLP(C) NO. 13964 of 2012
(With appln.(s) for c/delay in filing SLP and with office report)

SLP(C) NO. 20295 of 2012
(With appln.(s) for c/delay in filing SLP and with office report)

Date: 25/07/2013 These cases were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR
HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE

For Parties :
Mr. Sanjay R. Hegde, Adv.(N/P)
Mr. V.N. Raghupathy, Adv.
Ms. Anitha Shenoy, Adv.
Mr. Darpan K.M., Adv.
Mr. Naveen R. Nath, Adv.
Ms. Nidhi, Adv. (SCLSC)

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

Delay in filing application for bringing L.Rs. on record
in Special Leave Petition (Civil) No.5839 of 2012 is condoned.
Application for substitution in Special Leave Petition

(Civil) No.5839 of 2012 is allowed, subject to all just exceptions.

Delay condoned and leave granted in Special Leave Petitions.

The appeals are dismissed in terms of the signed order. No costs.

| (VINOD LAKHINA) | | (SNEH BALA MEHRA) |
| COURT MASTER | | COURT MASTER |

(SIGNED ORDER IS PLACED ON THE FILE)

N.B. Learned counsel appeared for Mr. Sanjay R. Hegde, Adv. did not give her appearance slip.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2238 OF 2006

STATE OF KARNATAKA & ORS.ETC. ...APPELLANTS

VERSUS

SRI PUTTAPPA (DEAD) BY LRS.
& ANR.ETC. ...RESPONDENTS

WITH

CIVIL APPEAL NO.6045 OF 2013

[Arising out of Special Leave Petition (Civil) No.9160 of 2006]

[EXECUTIVE ENGINEER, KARNATAKA & ANR. ETC. VS. ZABEDA BEGUM & ANR.ETC.]

WITH

CIVIL APPEAL NO.3056 OF 2006

[STATE OF KARNATAKA & ORS. VS. KALLAPPA FAKIRAPPA BANDIGANAVAR & ANR.]

WITH

CIVIL APPEAL NO.6046 OF 2013

[Arising out of Special Leave Petition (Civil) No.5839 of 2012]

[STATE OF KARNATAKA & ANR. VS.SRI VEERANNA & ORS.]

WITH

CIVIL APPEAL NO.6047 OF 2013

[Arising out of Special Leave Petition (Civil) No.9501 of 2012]

[STATE OF KARNATAKA & ORS. VS.PUTTASWAMY]

WITH

CIVIL APPEAL NO.6048 OF 2013

[Arising out of Special Leave Petition (Civil) No.13964 of 2012]

[STATE OF KARNATAKA & ANR. VS. RAMAKRISHNAIAH & ORS.]

WITH

CIVIL APPEAL NO.6049 OF 2013

[Arising out of Special Leave Petition (Civil) No.20295 of 2012]

[STATE OF KARNATAKA & ORS. VS. M. DODDAMADA]

ORDER

Delay in filing application for bringing L.Rs. on record in Special Leave Petition (Civil) No.5839 of 2012 is condoned.

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Application for substitution in Special Leave Petition (Civil) No.5839 of 2012 is allowed, subject to all just exceptions.

Delay condoned and leave granted in Special Leave Petitions.

The only question that arises for consideration at our hands is whether the continuous employment rendered by the respondents as daily wagers prior to their regularization in service can be taken into consideration as qualifying service to determine their retiral benefits. The aforesaid issue came to be determined by the Karnataka Administrative Tribunal as also by the High Court by placing reliance on Rule 247-A of the Karnataka Civil Services Rules, 1958. The applicability of the aforesaid rule is subject matter of challenge at the hands of the employer before us. Insofar as the veracity of the applicability of Rule 247-A is concerned, reliance has primarily been placed on sub-rule (8) thereof, which has been extracted hereunder:

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"247-A (8) The addition to qualifying service under this rule may be extended if it is advantageous to the Government servants in lieu of the benefit admissible to him under Rule 248:

Provided that the addition of qualifying service under this rule is not admissible to.-

(i) employees governed under Rule 235;

(ii) employees governed by Triple Benefit Scheme Rules; and

(iii) employees borne on work charged establishment absorbed in regular pensionable service."

According to the learned counsel for the appellants, the respondents had rendered service on work-charged establishments and were subsequently absorbed in regular pensionable service, and as such, they are not entitled to the benefit of the service rendered by them prior to their absorption in regular pensionable service.

The solitary factual position that needs to be taken into consideration in determining the submission advanced at the hands of the learned counsel for the appellants is, whether the respondents were borne on work charged establishment

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prior to their absorption in regular pensionable service. A perusal of the impugned orders does not reveal that it was ever a contention at the hands of the appellants (before this Court), that the respondents were borne on some work charged establishment. It has always been the case of the appellants that, prior to their regularization, the respondents were daily wagers.

We have perused the pleadings in the petitions filed before this Court, more particularly, Paragraph 5.2 (in Civil Appeal No.2238 of 2006). It has repeatedly been expressed therein that the respondents were daily wagers. There is no mention whatsoever in the narration of facts recorded in the petition that the respondents were borne on some work charged establishment.

In the above view of the matter, it is not possible for us to accept the exclusion of Rule 247-A of the Karnataka Civil Services Rule, 1958. We say so because it has not been established before us that the respondents were engaged in some work-charged establishment prior to their regularization in regular pensionable service.

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For the reasons recorded above, we find no merits in these appeals and the same are, accordingly, dismissed. No costs.

.....,J.
(JAGDISH SINGH KHEHAR)

.....,J.
(PINAKI CHANDRA GHOSE)

NEW DELHI
JULY 25, 2013