

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Interlocutory Application No 119866 of 2022**

**In**

**Civil Appeal No 4569 of 2002**

**State of Gujarat**

**Appellant**

**Versus**

**Meenaben Vinodrai Jethi**

**Respondent**

**ORDER**

- 1 This interlocutory application has been moved by the respondent in the civil appeal.
- 2 The respondent was employed in the forest department of the State of Gujarat on the post of typist-cum-clerk on a daily wage basis in 1987. The respondent served for a period of 617 days from 2 September 1987 until 30 April 1990 as a daily wager.
- 3 A suit for declaration and permanent injunction was initially filed by the respondent who apprehended that the State was likely to appoint new

persons as typists. The suit was dismissed on 13 February 1991 on the ground of jurisdiction following which a reference was sought before the Labour Court. By an award dated 26 August 1996, the Labour Court granted reinstatement and directed the State to pay the salary due to the respondent from 1 May 1990 to 30 August 1996.

- 4 The writ petition insituted by the State to challenge the award of the Labour Court was dismissed on 20 April 1999. The Letters Patent Appeal was dismissed on 18 September 2000. The order of the High Court was challenged in the Special Leave Petition in which leave was granted on 5 August 2002, coupled with an interim stay on the payment of back wages.
- 5 The respondent was reinstated on 19 May 1997 as a daily wager. The respondent was granted the regular pay scale on 20 January 2015 by a resolution dated 17 October 1988 of the Government of Gujarat. Daily wagers serving in different departments of the State Government were granted the benefit of pay scales and other facilities. The respondent continued to serve upon reinstatement until she attained the age of superannuation on 31 May 2021.
- 6 The main appeal has been tagged with the proceedings in ***State of Uttar Pradesh vs Jai Bir Singh***<sup>1</sup> by an order dated 14 December 2004. The issue as to whether the Department of Forests is an industry was referred to a

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<sup>1</sup> Civil Appeal No 897 of 2002

Constitution Bench. On 2 January 2017, a Bench of seven Judges has referred the correctness of the decision of this Court in ***Bangalore Water Supply and Sewerage Board vs A Rajappa and Others***<sup>2</sup> to a nine-Judge Bench.

- 7 The limited issue is in regard to the disbursal of the retiral dues to the respondent. The interim order of this Court dated 5 August 2002 only granted a stay on the payment of back wages. The main issue as to whether the Forest Department is an industry would be decided in the reference which has been made to nine Judges. However, in the facts and circumstances of the present case, it is evident that the respondent has been reinstated in service and had continued to work for a period of 34 years before retiring from service
- 8 In this view of the matter, we modify the interim order dated 5 August 2002 and direct that (i) the respondent shall be paid back wages in pursuance of the award of the labour court; and (ii) the respondent shall be paid all her retiral dues and all consequential benefits. The aforesaid exercise shall be carried out within a period of two months from today and the amount which is due and payable shall accordingly be paid over. We clarify that the benefits which are due and payable to the respondent shall be computed in accordance with the applicable pay scales in terms of the relevant government resolutions.

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<sup>2</sup>(1978) 2 SCC 213

- 9 The main issue as to whether the Forest Department is an industry shall be governed by the decision of the nine-Judge Bench.
- 10 The Interlocutory Application is accordingly disposed of.

.....J.  
**[Dr Dhananjaya Y Chandrachud]**

.....J.  
**[Hima Kohli]**

.....J.  
**[Pamidighantam Sri Narasimha]**

New Delhi;  
September 21, 2022  
CKB

ITEM NO.104

COURT NO.2

SECTION III-A

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.897/2002

STATE OF U.P.

Appellant(s)

VERSUS

JAI BIR SINGH

Respondent(s)

(With IA No.2/2006 - IMPLEADMENT)

WITH C.A. No.4569/2002 (III)

(With IA No.119866/2022 - CLARIFICATION/DIRECTION, IA No.13146/2020 - CLARIFICATION/DIRECTION and IA No.13147/2020 - EXEMPTION FROM FILING O.T.)

Date : 21-09-2022 These matters were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MS. JUSTICE HIMA KOHLI  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Appellant(s)

Mr. V.K. Shukla, Sr. Adv.  
Mr. Rajeev Kumar Dubey, Adv.  
Mr. Kamlendra Mishra, AOR

CA 4569/2002

Ms. Deepanwita Priyanka, AOR

For Respondent(s)

Mrs. K. Sarada Devi, AOR

Mr. M.K. Garg, AOR

**Mr. Sarthak Arora, Adv.  
Ms. Nidhi, AOR**

**Mr. Jawahar Raja, Adv.  
Mr. Pukhrambam Ramesh Kumar, AOR  
Mr. Karun Sharma, Adv.  
Ms. Anupam Ngangom, Adv.  
Mr. Wahengbam Immanuel Meitei, Adv.  
Mr. Archit Krishna, Adv.**

**Mr. Sayid Marzook Bafaki, AOR**

**Mr. Krishan Kumar, AOR**

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

- 1 Ms K Sarda Devi, counsel for the respondent is discharged from the proceedings in view of the appearance of counsel, Ms Nidhi.
- 2 The Interlocutory Application (IA No 119866/2022 in CA No 4569/2002) is disposed of in terms of the signed order.

**(CHETAN KUMAR)  
A.R.-cum-P.S.**

**(SAROJ KUMARI GAUR)  
Assistant Registrar**

**(Signed order is placed on the file)**