

C.A.No. 5147 OF 2001
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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5147 OF 2001@@
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Distt. Rural Dev. Agency

Appellant (s)

versus

Sukhminder Singh

Respondent (s)

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The respondent herein was appointed on 6.1.88 as Junior Engineer on daily wages to work under a scheme floated by the District Rural Development Agency. The services of respondent were terminated on 29.2.1992. By way of reference, the respondent challenged his retrenchment before the Labour Court, Bikaner. The respondent contended before the Labour Court that he had worked for more than 240 days during the period of 12 months. It was also contended that his juniors had been retained by the department and that the respondent was not given either one month's salary or one month's notice, which is in violation of Section 25F of the Industrial Disputes Act. The appellant herein did not file counter statement before the Labour Court. From the award passed by the Labour Court it appears that a ..2/-

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representative, by name Mr. O.P. Bishnoi, appeared for the employer. No evidence had been led on behalf of the appellant. The Labour Court held that there was violation of Section 25F of the I.D Act. It was also noticed that a junior worker, by name Jagdish Prasad Garhwal was retained in service and the Labour Court directed the appellant herein to re-instate the respondent in service. It was also ordered that from 25.10.1992 till reinstatement the respondent shall be paid 60% of his previous wages. The award passed by the Labour Court was challenged by the appellant before the learned Single Judge of the High Court of Rajasthan at Jodhpur. The learned Judge held that since the employer had not adduced any evidence, the award cannot be challenged. The learned Single Judge noticed that there were laches on the part of some of the officers of the State. The appellant herein was given liberty to initiate proceeding against officers who were responsible for not prosecuting the case properly before the Labour Court. The appellant was also given liberty to retrench the workman strictly according to

the procedure of law. Aggrieved by the order passed by the learned Single Judge, the appellant preferred an appeal before the Division Bench. The High Court dismissed the appeal. Hence, this special leave to appeal.

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Learned Senior Counsel, who appeared for the State contended that the respondent had been working under a scheme and the scheme itself is over; therefore, the respondent was liable to be terminated. The appellant had also contended that the provisions of the Industrial Disputes Act are not applicable and the appointment of the respondent was exclusively for the purpose of a scheme. The reference was made to a decision in Rajendra and Others vs. State of Rajasthan and Others 1999(2) SCC 317 and it has been contended by the learned counsel for the appellant that the District Rural Development Agency carried out certain social welfare functions and therefore, it is not an 'industry' within the meaning of the Industrial Disputes Act. That was a case in which some of the employees working under the scheme were seeking regularisation. This Court stated that the employees therein were not entitled to seek regularisation. The question whether in view of the nature of work and functions, it would come within the meaning of an 'industry' or not was not specifically considered and decided. Moreover, the appellant herein did not raise this contention before the Labour Court. No material about the closure of scheme in which the respondent was allegedly employed was let in. We are also aware that the only contention raised before

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the High Court was whether the termination was illegal or not. The Learned Single Judge held that termination was illegal as it violates Section 25F of the Industrial Disputes Act and at the same time permitted the appellant to take any action in accordance with the procedure of law regarding termination. We are not inclined to interfere with the judgment of the learned Single Judge as confirmed by the Division Bench in appeal.

The Appeal is dismissed.

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.....J
(K.G.Balakrishnan)

New Delhi,
January 21, 2003.

.....J
(P.Venkatarama Reddi)

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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.5147 OF 2001@@
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Distt. Rural Dev. Agency

Appellant (s)

Versus

Sukhminder Singh

Respondent (s)

Dated: 21/01/2003 These appeals were called on for hearing today.

CORAM:

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For Appellant (s) Mr. V.N. Raghupathy,Adv.

For Respondent (s) Mr. Kailash Vasdev,Adv.

UPON hearing counsel, the Court made the following
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The appeal is dismissed in terms of the signed order.

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(Saroj Bala)
PA to Addl. Registrar

(Veera Verma)
Court Master

(The signed order is placed on the file)