

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(s).20384/2005

(From the judgement and order dated 24/03/2005 in CWP No. 13131/2003 of The  
HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

STATE OF HARYANA AND ANR.

Petitioner(s)

VERSUS

RAJENDER KUMAR

Respondent(s)

(With prayer for interim relief and office report )

(For final disposal)

Date: 15/02/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s)

Mr.Ajay Siwach, Adv.

Mr.T.V.George,Adv.

Mr.Ravi Kant Jha, Adv.

For Respondent(s)

Mr.Rishi Malhotra, Adv.

Mr. Prem Malhotra,Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order. There will be no order as to costs.

(Meenu Sethi)  
Court Master

( Anand Singh)  
Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 796 OF 2007  
(Arising out of SLP(C) No.20384/2005)

State of Haryana & Anr. ...Appellants  
Versus  
Rajender Kumar ...Respondent

ORDER

Leave granted.

Respondent was appointed as a daily-wager from September 1992. His services were terminated on 21.8.1993. After a period of more than six years an industrial dispute was raised and the State of Haryana in exercise of its power under Section 10(1)(C) of the Industrial Disputes Act made a Reference of the following dispute for its determination by the Industrial Tribunal, -cum-Labour

Court:

" Whether the termination of services of Shri Rajinder Kumar is justified and in order? If not, along with reinstatement, to what amount of back wages, he is entitled to?"

Before the Labour Court a settlement was arrived at.

In terms of the said settlement, an award was passed by the Labour Court. The respondent filed a writ petition before the High Court wherein a contention was raised that in terms of the purported scheme of regularisation adopted by the State, his services should have been directed to be regularised. The said plea found favour with the High Court and by reason of the impugned judgment, it deprecated the action of the appellants herein for not regularising the services of the respondent.

The impugned judgment cannot be sustained in so far as the High Court did not take into consideration; (i) the jurisdiction of the Labour Court emanates from the Reference made by the State and in that view of the matter the Labour Court could not have gone beyond the said Reference; (ii) there was no settlement in regard to regularisation of the respondent in services purported to be in terms of the scheme made by the appellants herein or otherwise; (iii) in any event such a scheme would be illegal being ultra-vires

Article 14 and 16 of the Constitution of India as has been held by the Constitution Bench of this Court in Secretary,

State of Karnataka and Ors. Vs. Umadevi (3) & Ors.- (2006) 4

SCC 1. We, therefore, set aside the impugned judgment. The

appeal is allowed. However, it is clarified that respondent

would continue to enjoy the status of daily wager. There will

be no order as to costs.

.....J.

[ S.B. SINHA ]

.....

...J.

[ MARKANDEY

KATJU ]

New Delhi,

February 15, 2007