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ITEM NO.46

COURT NO.11

SECTION XIA

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).20648/2011

(From the judgement and order dated 23/02/2011 in WA No.720/2008 of The  
HIGH COURT OF KERALA AT ERNAKULAM)

P.U. LUKOSE

Petitioner(s)

VERSUS

KERALA STATE ELECTRICITY BOARD & ORS.

Respondent(s)

(With office report )

Date: 15/02/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR  
HON'BLE MR. JUSTICE M.Y. EQBAL

For Petitioner(s)

Mr. C.N. Sree Kumar,Adv.

For Respondent(s)

Mr. M.T. George,Adv.

Mr. Vipin Nair,Adv.

Mr. P.B.Suresh,Adv.

Mr. U.Banerjee,Adv.

Mr. Prakash Baghel,adv.for  
M/S. Temple Law FirM.

Ms. Liz Mathew,Adv.

Ms. Sana Hashmi,Adv.

Mr. Philip Mathew,Adv.

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

Leave granted.

The appeal is disposed of.

[SUMAN WADHWA]  
COURT MASTER

[INDU BALA KAPUR]  
COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1422 OF 2013  
(Arising out of SLP(C)No. 20648/2011)

P.U.LUKOSE

.. APPELLANT(S)

vs.

KERALA STATE ELECTRICITY BOARD  
& ORS.

.. RESPONDENT(S)

O R D E R

Leave granted.

Perusal of the counter affidavit filed by the respondents before the High Court (at page 34 para 6) clearly indicates that the settlement was arrived at by the Board and the recognized trade union members. As per the Settlement, the monthly rated Casual Labour Roll (CLR) workers engaged from 1978 whose cases are pending regularization as Mazdoors by the P.S.C. will be granted the scale of pay applicable to Mazdoors (Electrical workers) notionally w.e.f. 1.4.92 with monetary benefit from 1.8.95. Counter affidavit further states that strictly speaking, though the appellant will not be entitled for the benefit, inasmuch as the appellant joined service of the Board only in 1979, the appellant was granted the benefit of the said settlement dated 2.8.95 taking into consideration his long service.

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The counter further goes on to state that the appellant retired from service w.e.f. 31.10.2000 and his pension papers are being processed for the grant of monthly pension. Taking note of the appellant stand in the affidavit the learned Single Judge directed that the services of the appellant be regularized. But he would not be entitled to the monetary benefits by way of arrears of differences in pay for the period, since the appellant has already retired.

It appears that the aforesaid view was taken by the learned Single Judge based on the averments made in the counter affidavit filed by the State. The Division Bench rejected the claim of the appellant as his name was not selected by the PSC for regularization, even though the State was willing to extend the benefit to him in view of his long service. Since the order of the learned Single Judge had been passed only keeping the peculiar facts and circumstances in view, the Division Bench need not have reversed the same.

We, however, make it clear that this order is passed keeping in mind the peculiar facts and circumstances of this case, and shall not be treated as a precedent.

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In view of the above, the judgment of the Division Bench clearly cannot be sustained and is set aside, the judgment of the learned Single Judge is restored. The respondents are directed to implement the directions issued by the learned Single Judge within a period of four weeks from the receipt of the certified copy of this order.

The appeal is disposed of.

.....J.  
(SURINDER SINGH NIJJAR)

.....J.  
(M. Y. EQBAL)

New Delhi,  
February 15, 2013.