

ITEM NO.102

COURT NO.5

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.321 of 2013

M.D., M.P. ROAD TRANSPORT CORP. & ANR.

Appellant(s)

VERSUS

PRANTIYA RAJYA PARIVAHAN KAR. SAN & ORS.

Respondent(s)

(With office report)

Date : 03/09/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s) Mr. R.P. Bhat, Sr. Adv.
Ms. Jayashree Wad, Adv.
Mr. Ashish Wad, Adv.
Ms. Kanika Baweja, Adv.
Ms. Paromita majumdar, Adv.
for M/s. J. S. Wad & Co.

For Respondent(s) Mr. S.K. Dubey, Sr. Adv.
Mrs. Kawaljit Kochar, Adv.
Mr. Samrat Jasra, Adv.
Ms. Kusum Chaudhary, AOR

Mr. Mishra Saurabh, Adv.
Ms. Vanshaja Shukla, Adv.
Mr. Ankit Kr. Lal, Adv.
Mr. B. S. Banthia, AOR

Mr. R.N. Tripathi, Adv.
Mr. Nalin Tripathi, Adv.
Mr. Rameshwar Prasad Goyal, AOR

Mr. B.S. Rajesh Agrajit, Adv.
Mr. Shyamal Kumar, AOR

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

Heard Mr. R.P. Bhat, learned senior counsel for the appellant and Mr. S.K. Dubey, learned senior counsel for the respondent.

The controversy involved in this case pertains to grant of certain service benefits when the employees-workmen were in service. The Tribunal has granted the benefits and the High Court has concurred with it. Be it noted, certain benefits were not granted by the Tribunal to the workmen, but the said part of the award has gone unassailed. It is submitted by Mr. R.P. Bhat, learned senior counsel for the appellant that after the employees accepted the voluntary retirement under the Scheme, they cannot make any claim in respect of past dues. To bolster the said submission, he has placed reliance on A.K. Bindal and Another vs. Union of India and Others (2003) 5 SCC 163.

We have been apprised at the Bar that the pronouncement in A.K. Bindal (*supra*) and the decision in National Buildings Construction Corporation vs. Pritam Singh Gill and Others (1972) 2 SCC 1, expressed divergent views and, therefore, a reference has been made to the larger Bench by the two-Judge Bench in A. Satyanarayana Reddy and Others vs. Presiding Officer, Labour Court, Guntur and Others (2008)

5 SCC 280. The relevant paragraphs of A. Satyanarayana Reddy (*supra*) read as follows:

"Noticing a large number of decisions of the High Courts on the said subject, this Court held:

"In order to remove this repugnancy s. 33C(2) must be so construed as to take within its fold a workman, who was employed during the period in respect of which he claims relief, even though he is no longer employed at the time of the application. In other words the term "workman" as used in Section 33C(2) includes all persons whose claim, requiring computation under this sub-section, is in respect of an existing right arising from his relationship as an industrial workman with his employer. By adopting this construction alone can we advance the remedy and suppress the mischief in accordance with the purpose and object of inserting Section 33-C in the Act."

The right of the workman to claim payment of lay off compensation is not denied or disputed. If the said claim has no nexus with the Voluntary Retirement Scheme, in our opinion, in a given case, like the present one, it is possible to hold that a proceeding under Section 33C(2) of the Act would be maintainable. We are, therefore, of the opinion that the question being one of some importance should be considered by the larger Bench as there exists an apparent conflict in the said decisions of *National Buildings Construction Corporation* (*supra*) and *A.K. Bindal* (*supra*)."

Ordinarily, we would have adjourned the matter awaiting the verdict of the larger Bench, but it is submitted by Mr. S.K. Dubey, learned senior counsel appearing for the respondents that more than three hundred employees are

already in service and, therefore, their claim should be adjudicated or there should be interim payment as the amount has been deposited before the Industrial Tribunal.

Mr. R.P. Bhat, learned senior counsel, being assisted by Ms. Jayashree Wad, learned counsel for the appellant-Corporation, shall obtain instructions with regard to the number of employees working in the Corporation.

Let the matter be listed on 24th September, 2015.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master