

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).26423/2005

(From the judgement and order dated 12/04/2005 in CWP No. 11530/2004 of The  
HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

MAHARSHI DAYANAND UNIVERSITY, ROHTAK

Petitioner(s)

VERSUS

RAJBIR SINGH

Respondent(s)

(With prayer for interim relief and office report )

(For final disposal)

Date: 12/01/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE D.K. JAIN

For Petitioner(s)

Mr. Nidhesh gupta, Adv. for

Ms. S. Janani,Adv.

For Respondent(s)

Mr. Mahabir Singh, Sr. Adv.

Mr. J.B. Mudgil, Adv.

Mr. Ramesh Haritosh, Adv. for

Mr. R.C. Kaushik,Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The Appeal is allowed. No costs.

(Parveen Kr. Chawla)

Court Master

(Kanwal Singh)

Court Master

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 182 OF 2007

(Arising out of SLP(C) No.26423/2005)

Maharshi Dayanand University, Rohtak

..Appellant

Versus

Rajbir Singh

..Respondent

O R D E R

Leave granted.

Respondent-workman was appointed as Junior Store Keeper on

ad hoc basis on 24.4.1995 for a period of three months. He was granted extension for a period of one month i.e. from 25.7.1995 to 24.8.1995 and again extended up to 31st of August, 1995. He was

relieved on 31.8.1995. Respondent raised an industrial dispute which was referred to the labour court, Rohtak. The Labour Court vide its award dated 5.4.2004 accepted the reference and directed reinstatement of the respondent with continuity of service with 50% back wages. It was held that even though the respondent has not completed 240 days of continuous service with the management, the management failed to adopt the procedure of 'last come first go'. That the termination of the respondent was illegal as the same was in violation of the provisions of Section 25-G and 25-H of the Industrial Disputes Act, 1947 (for short 'the Act').

Being aggrieved, appellant filed writ petition No. 11530 of 2004 in the High Court which has been dismissed by the High Court by a short non-speaking order. Counsel appearing for the appellant submits that services of the respondent-workman were terminated as per terms of the contract of his employment contained in the appointment letter which will fall within the exception contained in clause (bb) of Section 2 (oo) of the Act and, thus, it will not amount to retrenchment. It is further contended that the respondent had worked merely for a period of 130 days i.e. from 24.4.1995 to 31.8.1995 and thus he is not a workman within the meaning of the Act and cannot be given the benefit of Sections 25-G and 25-H of the Act. That his terms of appointment specifically provided that the appointment is purely on adhoc basis for a period of three months and it could be terminated at

any time without any notice from either side.

The point in issue is squarely covered by number of decisions of this Court in Escorts Ltd. v Presiding Officer & Another (1997) 11 SCC 521; Uptron India Ltd. v. Shammi Bhan (1998) 6 SCC 538; Kalyani Sharm India Ltd. v. Labour Court (2002) 9 SCC 655 and a recent judgment in Haryana State Agricultural Marketing Board vs. Subhash Chand & Another (2006) 2 SCC 794 in which it has been held as follows:

"The question as to whether Chapter V-A of the Act will apply or not would be dependent on the issue as to whether an order of retrenchment comes within the purview of Section 2 (oo)(bb) of the Act or not. If the termination of service in view of the exception contained in clause (bb) of Section 2(oo) of the Act is not a "retrenchment", the question of applicability of Chapter V-A thereof would not arise."

In view of the foregoing reasons, this appeal is accepted and the orders passed by the High Court as well as the Labour Court are set aside and the reference filed by the respondent is dismissed. No costs.

.....J.

[ASHOK BHAN]

NEW DELHI;

.....J.

JANUARY 12, 2007.

[D.K. JAIN]