

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 9722 OF 2013
(Arising out of SLP(C)No.14194 of 2009)

CONTROLLER, GOVT. PRINT. & STATION. PRESS

Appellant(s)

VERSUS

RASHIDA B.

Respondent(s)

With

- CIVIL APPEAL NO(s).9723 OF 2013
(ARISING OUT OF SLP(C) NO. 29532 of 2011)
- CIVIL APPEAL NO(s).9724 OF 2013
(ARISING OUT OF SLP(C) NO. 29535 of 2011)
- CIVIL APPEAL NO(s).9725 OF 2013
(ARISING OUT OF SLP(C) NO. 29905 of 2011)
- CIVIL APPEAL NO(s).9726 OF 2013
(ARISING OUT OF SLP(C) NO. 29906 of 2011)
- CIVIL APPEAL NO(s).9727 OF 2013
(ARISING OUT OF SLP(C) No. 30861 of 2011)
- CIVIL APPEAL NO(s).9728 OF 2013
(ARISING OUT OF SLP(C) NO. 30862 of 2011)
- CIVIL APPEAL NO(s).9729 OF 2013
(ARISING OUT OF SLP(C) NO. 30864 of 2011)
- CIVIL APPEAL NO(s).9730 OF 2013
(ARISING OUT OF SLP(C) NO. 30865 of 2011)
- CIVIL APPEAL NO(s).9731 OF 2013
(ARISING OUT OF SLP(C) NO. 30866 of 2011)
- CIVIL APPEAL NO(s).9732 OF 2013
(ARISING OUT OF SLP(C) NO. 30867 of 2011)
- CIVIL APPEAL NO(s).9733 OF 2013
(ARISING OUT OF SLP(C) NO. 30868 of 2011)
- CIVIL APPEAL NO(s).9734 OF 2013
(ARISING OUT OF SLP(C) NO. 30869 of 2011)
- CIVIL APPEAL NO(s).9735 OF 2013
(ARISING OUT OF SLP(C) NO. 30870 of 2011)
- CIVIL APPEAL NO(s).9736 OF 2013
(ARISING OUT OF SLP(C) NO. 30871 of 2011)
- CIVIL APPEAL NO(s).9737 OF 2013
(ARISING OUT OF SLP(C) NO. 30872 of 2011)
- CIVIL APPEAL NO(s).9738 OF 2013
(ARISING OUT OF SLP(C) NO. 30873 of 2011)
- CIVIL APPEAL NO(s).9739 OF 2013
(ARISING OUT OF SLP(C) NO. 30875 of 2011)
- CIVIL APPEAL NO(s).9740 OF 2013
(ARISING OUT OF SLP(C) NO. 30876 of 2011)
- CIVIL APPEAL NO(s).9741 OF 2013
(ARISING OUT OF SLP(C) NO. 30877 of 2011)
- CIVIL APPEAL NO(s).9742 OF 2013
(ARISING OUT OF SLP(C) NO. 30878 of 2011)
- CIVIL APPEAL NO(s).9743 OF 2013
(ARISING OUT OF SLP(C) NO. 30879 of 2011)
- CIVIL APPEAL NO(s).9744 OF 2013
(ARISING OUT OF SLP(C) NO. 30880 of 2011)
- CIVIL APPEAL NO(s).9745 OF 2013
(ARISING OUT OF SLP(C) NO. 30881 of 2011)
- CIVIL APPEAL NO(s).9746 OF 2013
(ARISING OUT OF SLP(C) NO. 30882 of 2011)
- CIVIL APPEAL NO(s).9747 OF 2013
(ARISING OUT OF SLP(C) NO. 30884 of 2011)
- CIVIL APPEAL NO(s).9748 OF 2013
(ARISING OUT OF SLP(C) NO. 30886 of 2011)

CIVIL APPEAL NO(s).9749 OF 2013
(ARISING OUT OF SLP(C) NO. 30887 of 2011)
CIVIL APPEAL NO(s).9750 OF 2013
(ARISING OUT OF SLP(C) NO. 30888 of 2011)
CIVIL APPEAL NO(s).9751 OF 2013
(ARISING OUT OF SLP(C) NO. 30889 of 2011)
CIVIL APPEAL NO(s).9752 OF 2013
(ARISING OUT OF SLP(C) NO. 30890 of 2011)
CIVIL APPEAL NO(s).9753 OF 2013
(ARISING OUT OF SLP(C) NO. 30891 of 2011)
CIVIL APPEAL NO(s).9754 OF 2013
(ARISING OUT OF SLP(C) NO. 30892 of 2011)
CIVIL APPEAL NO(s).9755 OF 2013
(ARISING OUT OF SLP(C) NO. 30893 of 2011)
CIVIL APPEAL NO(s).9756 OF 2013
(ARISING OUT OF SLP(C) NO. 30897 of 2011)
CIVIL APPEAL NO(s).9757 OF 2013
(ARISING OUT OF SLP(C) NO. 30898 of 2011)
CIVIL APPEAL NO(s).9758 OF 2013
(ARISING OUT OF SLP(C) NO. 30899 of 2011)
CIVIL APPEAL NO(s).9759 OF 2013
(ARISING OUT OF SLP(C) NO. 30900 of 2011)
CIVIL APPEAL NO(s).9760 OF 2013
(ARISING OUT OF SLP(C) NO. 30902 of 2011)
CIVIL APPEAL NO(s).9761 OF 2013
(ARISING OUT OF SLP(C) NO. 30904 of 2011)
CIVIL APPEAL NO(s).9762 OF 2013
(ARISING OUT OF SLP(C) NO. 30905 of 2011)
CIVIL APPEAL NO(s).9763 OF 2013
(ARISING OUT OF SLP(C) NO. 30906 of 2011)
CIVIL APPEAL NO(s).9764 OF 2013
(ARISING OUT OF SLP(C) NO. 30907 of 2011)
CIVIL APPEAL NO(s).9765 OF 2013
(ARISING OUT OF SLP(C) NO. 30908 of 2011)
CIVIL APPEAL NO(s).9766 OF 2013
(ARISING OUT OF SLP(C) NO. 30909 of 2011)
CIVIL APPEAL NO(s).9767 OF 2013
(ARISING OUT OF SLP(C) NO. 30910 of 2011)
CIVIL APPEAL NO(s).9768 OF 2013
(ARISING OUT OF SLP(C) NO. 30911 of 2011)
CIVIL APPEAL NO(s).9769 OF 2013
(ARISING OUT OF SLP(C) NO. 30912 of 2011)
CIVIL APPEAL NO(s).9770 OF 2013
(ARISING OUT OF SLP(C) NO. 30913 of 2011)

O R D E R

Leave granted.

These appeals arise out a common order dated 11th December, 2008 passed by a Division Bench of the High Court of Madhya Pradesh at Jabalpur whereby a batch of writ petitions filed by the appellant challenging a common order dated 18th December, 2002 passed by the Labour Court and that passed in appeal by the Industrial Court, Bhopal, have been dismissed.

The respondents in all these petitions claim to have been affected by the poisonous gas leak incident in Bhopal. Their case is that they were as a measure of rehabilitation employed as daily-wagers at the Training-cum-Production Centre under the Department of Industries, Government of Madhya Pradesh, as early as in the year 1985. That Centre was later transferred to the Madhya Pradesh State Industrial Corporation and eventually to State Government Press. According to the respondents they were initially trained in binding, cutting, punching etc. and that they have been doing that work ever since their employment on a daily-wage basis under the administrative control and supervision of the Controller and the Deputy Controller of the Printing and Stationery Press, Maida Mill Road, Bhopal, Madhya Pradesh.

In pursuit of regularisation of their services, the respondents appear to have approached the M.P. State Administrative Tribunal at Jabalpur in O.A. No.3493 of 1990 which was dismissed by the Tribunal

holding that it had no jurisdiction to entertain the same as the respondents were not employees/civil servants under the State Government. The respondents assailed the order passed by the Tribunal in W.P. NO.4329 of 1997 through their Association (Gas Pedit Mahila Stationery Karmachari Sangh) which petition too failed and was dismissed in terms of an order dated 8th October, 1999 by the High Court. The respondents then preferred Application No.442/MP/IR/2000 before the Labour Court at Bhopal in which they once again claimed regularisation of their services and payment of differential amount upon regularisation as junior binders. The claim was opposed by the appellants herein on several grounds giving rise to as many as eight issues before the Labour Court, who answered the same in favour of the respondents and by its order dated 18th December, 2002 and directed the appellant herein to classify the respondents as junior binders on regular basis w.e.f. 29th April, 1998 and to grant them the pay scale as also the difference of salary admissible to the post of a junior binder.

Aggrieved by the order of the Labour Court, the appellant preferred an appeal before the Industrial Court at Bhopal which failed and was dismissed by its order dated 31 July, 2003. Undeterred by the order of dismissal, the appellant preferred writ petition (W.P. No.2209 of 2004) before the High Court of Madhya Pradesh at Jabalpur to assail the orders passed by the Labour Court and that passed by the Industrial Tribunal in appeal. The High Court of Madhya Pradesh has by the order impugned before us dismissed the writ petition holding that the respondents having worked for a long time as daily-wagers were entitled to be regularised against 150 posts available in the cadre of junior binder especially when they had served for a period of 11 years or so and their work and conduct had been found to be satisfactory and the standing orders on the subject were applicable to the appellant's establishment. The present appeals, as noticed above, assails the correctness of the said judgment and order.

We have heard learned counsel for the parties at some length. Appearing for the appellant, Ms. Vibha Datta Makhija, learned senior counsel, strenuously contended that the High Court was in error in holding that 150 posts in the cadre of junior binders were vacant and available against which the respondents could be regularised by the appellant. She submitted that there was no basis whatsoever for the High Court to record such a finding. She drew our attention to the material placed on record including the affidavits sworn by the officers of the State Government according to which there were in all 129 posts in the cadre of junior binders out of which a total 29 posts were vacant. Sixteen of the said posts were to be filled up through direct recruitment in terms of the relevant recruitment rules. The remaining 13 vacant posts were to be filled up by promotion from those serving in the lower cadre. She urged that the order passed by the High Court was, in the light of that position, wholly unsustainable.

Ms. Makhija further argued that the respondents were no doubt initially taken/inducted as trainees with a view to providing them training in an attempt to rehabilitate them, after the unfortunate gas-leak incident in Bhopal had adversely affected the respondents besides a large number of other people several of whom had lost their lives in the episode. Even after the initial period of training the respondents were, according to learned counsel, allowed to continue working in the establishment on daily-wage basis and were paid wages at the rates stipulated by the Collectorate. The Collectorate rates were, according to learned counsel, the minimum wages fixed for unskilled, semi-skilled and skilled workmen like the respondents. The wage entitlement of the respondents was therefore fully satisfied as per law and the practice followed by the Department. Such being the position there was no reason for either the Labour court or the Industrial court or even the High Court for that matter to direct that the services of the respondents should be regularised in total disregard of the fact that the respondents were not employed through any competitive process of selection to claim a substantive appointment or regularisation. She urged that while appellant had no intention of terminating the services of the respondents or others similarly employed and situate with them, yet the direction that they should be regularised could not be sustained. She submitted that the respondents' entitlement to claim equal pay for equal work was also untenable having regard to the fact that the nature of the duties being discharged by the respondents was materially different from those performed by the junior binders. The respondents were, according to learned counsel, attending to their duties for not more than 15 days in a

month and were being paid accordingly.

On behalf of the respondents, it was argued that the respondents have been working as junior binders and discharging the very same duties and functions as are assigned to such employees. It was also contended that the mere fact that the respondents have been continued in the employment of the appellant for such a long period of time entitled them to regularisation especially when the nature of the work in the establishment was of a perennial kind and had to be performed by regularly appointed employees or those engaged on daily-wage basis. The respondents were therefore entitled to not only regularisation as junior binders but also equal pay for the kind of work they were doing which was similar to that being done by junior binders.

The direction, issued by the Labour Court as affirmed by the Industrial Court and the High Court, proceeds entirely on the assumption that a suitable number of vacancies in the cadre of junior binders are available against which the respondents could be regularised. The actual position however is entirely different as is evident from the material placed before us which we see no reason to disbelieve. The appellant has affirmatively proved that there are only 29 vacancies for the present, 16 out of which are to be filled up through direct recruitment while the remaining 13 have to be filled up by promotion. There has been, according to the appellant, no recruitment for some time past on account of the on-going litigation. Be that as it may, the fact remains that the direction for regularisation issued by the High Court does not appear to be feasible in the absence of regular vacancies in the cadre of junior binders. That apart the nature of work which the respondents are said to be doing is, according to the appellants, different from that being done by regularly appointed junior binders. There is no material on record to substantiate that plea. That apart the Labour Court has recorded a finding to the effect that they have been working as junior binders. That being so the respondents are entitled to claim parity in terms of salary payable to the junior binders appointed on a regular basis at least at the minimum of the pay scale admissible to such binders. In fairness to the learned counsel for the respondents, we must say that they were agreeable to the orders passed by the Labour Court, the Industrial Court and the High Court being modified suitably to the extent that the respondents shall be paid the minimum of the pay scale admissible to a junior binder who is, we are told, today entitled to pay scale of Rs.5200-20200. The minimum of the pay scale in that grade works out to Rs.15360/- according to Ms. Vibha Datta Makhija. That being so we do not see any real difficulty in directing that from 1st November, 2013 emoluments at the rate of Rs.15360/- shall be paid to the respondents which shall be treated as their consolidated emoluments/fixed pay for the work that they would do. We make it clear that the emoluments at the rate of Rs.15360/- per month would be payable only in case they discharge their duties on a whole time basis subject to national and other holidays admissible to regular employee.

Insofar as emoluments for the period previous to 1st November, 2013 are concerned there was some debate at the Bar on that subject. The respondents claim the differential amount between what was actually paid to them and the minimum of the pay scale admissible to junior binders. In our opinion, interest of justice would be sufficiently served if we direct that for the period up to 31st October, 2013, the respondents shall be paid a sum of Rs.2,00,000/- (Rupees two lakhs) each in full and final settlement of their claims arising out of their long service and their entitlement to parity of emoluments with those working in similar position in the establishment.

We make it clear that the appellant shall be free to terminate the services of the respondents upon their attaining the age of superannuation applicable to such employees. We are informed that the age of superannuation is 60 years. Such of the respondents as have already attained that age can therefore be discharged from service upon payment of the amount of Rs.2,00,000/- (Rupees two lakhs) in terms of this order. We also make it clear that on receipt of the amount of Rs.2,00,000/- (Rupees two lakhs), the respondents shall have no claim whatsoever towards regularisation of their services or for any other benefits for that matter.

The orders of the Labour Court, the Industrial Court and that of the High Court are, to the extent mentioned above, modified and the appeals

disposed of leaving the parties to bear their own costs. This order having being made in the peculiar facts and circumstances of the case shall not be construed as a precedent for other cases.

.....J.
(T.S. THAKUR)

.....J.
(VIKRAMAJIT SEN)

NEW DELHI

DATED 29th October, 2013.

ITEM NO.1 (PH)

COURT NO.6

SECTION XV

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).14194/2009

(From the judgement and order dated 11/12/2008 in WP No.2209/2004 of The HIGH COURT OF M.P AT JABALPUR)

CONTROLLER,GOVT.PRINT.& STATION.PRESS

Petitioner(s)

VERSUS

RASHIDA B.

Respondent(s)

(With appln(s) for impleadment and with prayer for interim relief and office report)(For Final Disposal)

WITH SLP(C) NO. 29532 of 2011

(With office report)

SLP(C) NO. 29535 of 2011

(With office report)

SLP(C) NO. 29905 of 2011

(With appln(s) for c/delay in filing SLP and office report)

SLP(C) NO. 29906 of 2011

(With appln(s) for c/delay in filing SLP and office report)

SLP(C) No. 30861/2011

(With office report)

SLP(C) NO. 30862 of 2011

(With office report)

SLP(C) NO. 30864 of 2011

(With office report)

SLP(C) NO. 30865 of 2011

(With office report)

SLP(C) NO. 30866 of 2011

(With office report)

SLP(C) NO. 30867 of 2011

(With office report)

SLP(C) NO. 30868 of 2011

(With office report)

SLP(C) NO. 30869 of 2011

(With office report)

SLP(C) NO. 30870 of 2011

(With office report)

SLP(C) NO. 30871 of 2011

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(With office report)
SLP(C) NO. 30912 of 2011
(With office report)
SLP(C) NO. 30913 of 2011
(With office report)

Date: 29/10/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s) Ms. Vibha Datta Makhija, Sr. Adv.
Mr. Mishra Saurabh, Adv.
Ms. Vanshaja Shukla, Adv.
Mr. B.S. Banthia, Adv.
Mr. Ankit Kr. Lal, Adv.
Ms. A. Agnihotiri, Adv.

For Respondent(s) Mr. M.K. Choudhary, Adv.
Mr. R.R. Srivastava, Adv.
Mr. Pankaj Jain, Adv.
Ms. Namita Choudhary, Adv.
Mr. Yudhistir Bharadwaj, Adv.

Mr. S.K. Verma, Adv.

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

Heard.
Delay condoned.
Leave granted.
The civil appeals are disposed of in terms of the signed
order.

|(Mahabir Singh)
| Court Master

|(Veena Khera)
| Court Master

(Signed order is placed on the file)