

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.6409-6410 OF 2011

M.P. Road Transport Corporation Appellant(s)
Thr. The Divisional Manager and Another

Versus

Ram Kumar Sharma Respondent (s)

WITH

CIVIL APPEAL NOS.6411-6412 OF 2011
CIVIL APPEAL NOS.6413-6414 OF 2011
CIVIL APPEAL NOS.6415-6416 OF 2011
CIVIL APPEAL NOS.6417-6418 OF 2011
CIVIL APPEAL NOS.6419-6420 OF 2011
CIVIL APPEAL NOS.6421-6422 OF 2011
CIVIL APPEAL NOS.6423-6424 OF 2011
CIVIL APPEAL NOS.6425-6426 OF 2011
CIVIL APPEAL NOS.6427-6428 OF 2011
CIVIL APPEAL NOS.6429-6430 OF 2011
CIVIL APPEAL NOS.6431 OF 2011
CIVIL APPEAL NOS.6432 OF 2011

O R D E R

The respondents in these appeals asserted before the Labour Court, Gwalior, M.P., that they were appointed by the M.P. Road Transport Corporation (for short, 'the Corporation') as 'badli drivers'. It was also asseverated that they had worked approximately for a period of four years and, therefore, they were entitled to be classified as

permanent employees. The Labour Court allowed the petitions filed by the respondents by opining that though they were classified as badli workers, yet they were to be treated as permanent drivers.

Being grieved by the aforesaid order, the Corporation preferred an appeal before the Industrial Tribunal under the Madhya Pradesh Industrial Relations Act, 1960, and the Tribunal vide order dated 25th April, 2007, overturned the decision of the Labour Court on the foundation that the advertisement was for badli drivers and the respondents were engaged as such and, therefore, they could not be classified as permanent drivers.

The respondents preferred number of writ petitions before the High Court of Madhya Pradesh, Bench at Gwalior and the Division Bench of the High Court addressed itself with regard to the issue whether the appointment was *de-hors* the rules and came to hold that they were not appointed in violation of any rule or circular. Being of this view, it opined that the appointments could not be declared as illegal on the anvil of the decision rendered in Secretary, State of Karnataka vs. Uma Devi (2006) 4 SCC 1 and, accordingly, dislodged the order passed by the Industrial Tribunal. The Corporation filed the applications for review

which did not meet with success.

We have heard Mr. Jayant Kumar Mehta, learned counsel for the appellant-Corporation and Mr. Anoop Kumar Srivastava, learned counsel for the respondents in all the appeals.

There is no dispute over the fact that the advertisement was issued for engaging badli drivers. The respondents were engaged as badli workers. The High Court has referred to Rule 2 of the M.P. Industrial Employment (Standing Orders) Rules, 1963, (for short, the Rules') which deals with the classification. Rule 2(4) defines the 'badli' employee, which reads as follows:

"A 'badli' employee means an employee who is employed on the post of a permanent employee, or a probationer or a permanent seasonal employee who is temporarily absent."

Mr. Jayant Mehta, learned counsel appearing for the appellant has drawn our attention to the General Manager's Order No.846, which lays down procedure for holding test and interview for fresh appointments, including that of drivers. The said order has been modified vide order dated 4th June, 1983. The High Court in its impugned order has opined that no rules were produced before it. It has passed the order based on the Standing Order. We have also been apprised

that the fiscal health of the Corporation is extremely bad and, in fact, most of the employees have opted for voluntary retirement.

On a perusal of the pleadings and the orders, we find that it is very difficult to arrive at a definite conclusion as to whether the drivers who were employed as badli workers, can be treated to have been appointed in place of permanent vacancies. Be that as it may, their disengagement has taken place without following the due procedure of law and, therefore, in our considered opinion, the Labour Court should have been well advised to direct for grant of compensation instead of classification and re-engagement. The High Court, as is manifest, has failed to address to the said aspect.

In view of the aforesaid analysis, we think that each of the respondents shall be entitled to get Rs.2 lacs from the appellant-Corporation. The amount shall be paid to the respondents within eight weeks from today by way of bank drafts. The respondents shall be intimated about the order passed today. In case they are not available, the amount shall be deposited before the Labour Court, which shall disburse the same in favour of the respondents-workmen on proper identification.

Resultantly, the appeals are allowed to the extent indicated above. There shall be no order as to costs.

.....J.
(Dipak Misra)

.....J.
(Prafulla C. Pant)

New Delhi;
September 01, 2015.

ITEM NO.104

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 Nos.6409-6410/2011

M.P.ROAD TRANSPORT CORP. TR. DIV. MGR.& ANR

Appellant(s)

VERSUS

RAM KUMAR SHARMA

Respondent (s)

(With office report)

WITH C.A. No. 6411-6412/2011

C.A. No. 6413-6414/2011

(With Office Report)

C.A. No. 6415-6416/2011

(With Office Report)

C.A. No. 6417-6418/2011

(With Office Report)

C.A. No. 6419-6420/2011

(With Office Report)

C.A. No. 6421-6422/2011

(With Office Report)

C.A. No. 6423-6424/2011

(With Office Report)

C.A. No. 6425-6426/2011

(With Office Report)

C.A. No. 6427-6428/2011

(With Office Report)

C.A. No. 6429-6430/2011

(With Office Report)

C.A. No. 6431/2011

(With Office Report)

C.A. No. 6432/2011

(With Office Report)

Date : 01/09/2015 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA

HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Appellant(s) Mr. Jayant Kumar Mehta, AOR
Ms. Madhavi Khare, Adv.
Mr. Saurabh Dev Karan Singh, Adv.

For Respondent(s) Mr. Anoop Kr. Srivastav, AOR
Mr. Rajiv Kumar Sinha, Adv.

Mr. Sadhu Singh, AOR

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

The appeals are allowed in terms of the signed
order.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master

(Signed order is placed on the file)