

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

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CA 6409-10/11

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

CA 6409-10/11

3

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 employed on the post of a

an employee who is permanent employee,

or a probationer or a
employee who is temporarily

permanent seasonal
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

CA 6409-10/11

4

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

