

ITEM NO.19

COURT NO.4

SECTION IV-C

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

Petition(s) for Special Leave to Appeal (C) No(s).25609/2018

(Arising out of impugned final judgment and order dated 16-03-2018 in WA No.806/2017 passed by the High Court of M.P. Principal Seat at Jabalpur)

THE STATE OF MADHYA PRADESH & ORS.

Petitioner(s)

VERSUS

SHYAM KUMAR YADAV & ANR.

Respondent(s)

IA No.166907/2018 - EXEMPTION FROM FILING O.T.

IA No.116565/2018 - EXEMPTION FROM FILING O.T.

Date : 22-07-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Mr. Bharat Singh, A.A.G.
Mr. Sunny Choudhary, AOR
Mr. Abhinav Shrivastava, Adv.

For Respondent(s) Mr. Akshat Shrivastava, AOR
Mr. NB Chaudhary, Adv.
Mr. Satvic Mathur, Adv.
Mrs. Pooja Shrivastava, Adv.

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

1. Respondent No.1 was initially engaged as a daily rated employee at Collectorate rate on 26.11.1993. It seems that his services were terminated on 12.05.1995 but after a long gap, on the recommendation of the Screening Committee, he was reinstated in the year 2006. Learned State counsel, however, submits that respondent No.1 was reinstated in the year 2009. Be that as it may, it is not in dispute that he is working since then.

2. The issue that arose for consideration before the High Court in the second round of litigation was whether respondent No.1

was entitled to be absorbed as a regular employee, keeping in view the Government policy/Circular and the long period of service rendered by him as a daily wager. The High Court held that respondent No.1 was entitled to regularisation of his services as several persons junior to him had already been absorbed. The intra-court appeal preferred by the State has also been turned down by a Division Bench of the High Court vide the impugned order dated 16.03.2018.

3. We have heard learned Additional Advocate General for the petitioners as well as learned counsel for respondent No.1 at a considerable length and carefully perused the material placed on record.

4. We are constrained to observe that the affidavits or the documents filed on behalf of the petitioner-State from time to time, particularly the affidavit of the Commissioner, Technical Education, Bhopal, in purported compliance of our order dated 22.04.2024, are vague, evasive, and misleading.

5. It is true that an employee engaged on daily wages has no legally vested right to seek regularisation of his services. However, if the competent authority takes a policy decision within the permissible framework, its benefit must be extended to all those who fall within the parameters of such a policy. Authorities cannot be permitted to pick and choose in such circumstances.

6. The fact that respondent No.1 has worked as a daily wager from 2005 to 2009 is not in dispute. The eligibility for the post he holds has also not been controverted. The fact that he initially entered through the process in conformity with Articles 14 and 16 of the Constitution is also not a serious issue. That being so, we see no reason to interfere with the impugned order passed by the High Court directing the petitioners to confer the status of a regular employee on respondent No.1.

7. The Special Leave Petition is, accordingly, dismissed.

8. The petitioners are directed to do the needful and grant all the benefits, including arrears of pay and seniority, to respondent No.1 from the due date.

9. The needful shall be done within three months.

(SATISH KUMAR YADAV)
ADDITIONAL REGISTRAR

(PREETHI T.C.)
ASSISTANT REGISTRAR