

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

LPASW No. 82/2002
MP No. 107/2012
Contempt (LPA) No. 37/2012

Date of Judgment: 18.11.2015

Union of India,
Through Commandant 259 Coy
ASC (SUPP) TYPE 'G',
C/O 56 APO.

.....Appellant
Vs.

1. Kishori Lal S/O Shri Sarwan Dass and 76 others.
.....Respondents

Coram:

**Hon'ble Mr. Justice N. Paul Vasanthakumar, Chief Justice,
Hon'ble Mr. Justice Dhiraj Singh Thakur, Judge,**

Appearing counsel:

For the Appellant(s) : Mr. R. S. Jamwal, CGSC.
For the Respondent(s) : Mr. B. S. Salathia, Sr. Advocate with
Ms. Meenakshi Salathia, Advocate.

i/ Whether to be reported in Press/Media	:	Yes
ii/ Whether to be reported in Digest/Journal	:	Yes

N. PAUL VASANTHAKUMAR, CJ

1. This appeal is filed against the order of the learned Single Judge dated 10.11.2000 made in SWP No.2767/1999 wherein the learned Single Judge has allowed the writ petition filed by the respondents numbering 77 and giving direction to prepare some scheme for absorption of the respondents and till such time the services of the respondents, who are in service, are not brought to an end.

2. The case of the respondents before the Writ Court was that they were engaged by the appellant as causal labourers,

depending on the work of the Depot for unloading /loading of stores received by Rail and they are paid daily rate salary as fixed by the Labour Commissioner and they having been engaged as daily wagers for a specific work/task they can seek for regularization. The learned Single Judge, considering the fact that the respondents were engaged for several years, issued directions to frame some scheme for absorption of the respondents, considering the fact that SRO 64 of 1994 was issued by the State of Jammu and Kashmir to regularize the persons who were engaged on completion of seven years of service.

3. The appellant has filed this appeal against the order mainly contending that SRO 64 of 1994 issued by the State of Jammu and Kashmir has no application to the appellant as the Union of India has not framed any scheme to absorb such of the persons who were engaged as daily labour.

4. Mr. B. S. Salathia, learned senior counsel while accepting the submission of the appellant that SRO 64 of 1994 is not applicable to the case hand and the learned Single Judge was not right in relying on the said SRO, submitted that pursuant to the direction issued by the learned Single Judge the respondents were allowed to work as labour continuously and there was some disruption also.

5. This Court by order dated 09.04.2015 directed the appellant to file a status report along with the number of days for which the respondents were engaged along with other details, pursuant to which an affidavit was filed on 18.05.2015 by Major Jayanta Deka, presently posted as Officer In-charge Court cases, along with the muster roll giving details of the number of days of each year for which the respondents were given employment etc.

6. Mr. B. S. Salathia, learned senior counsel appearing for the respondents submitted that appellant have framed a scheme on 10.09.1993 for granting temporary status and regularization scheme for causal labour wherein it is stated that the scheme is not applicable to those casual workers who had not completed 240 or 206 days on 10.09.1993 and also those employed subsequently and there is no question of regularizing such a casual labourer. In the clarification order dated 29.01.1998 the Government decided to grant of temporary status to casual employees as one time affair to such of those casual workers only who were in service on the date of notification of the scheme i.e. 10.09.1993 and had rendered one year of continuous service with 240 or 206 days, as the case may be, on that date in any one of the year.

7. Learned senior counsel appearing for the respondents submitted that since the said scheme was issued and such of

those respondents who were coming within the scheme, namely, those who had completed 240 or 206 days in a year from the date of their engagement, may be directed to be given permanent status with other benefits as granted to similarly placed persons. In short the learned senior counsel submitted that the scheme, which was in vogue, was not applied in the case of the respondents erroneously, hence the respondents will be satisfied if the order of the learned Single Judge is modified with a direction to the appellant to apply the scheme, as stated supra, and pass orders by extending the scheme to the respondents in a given time.

8. The learned counsel appearing for the appellant submitted that the order of the learned Single Judge is erroneous and is liable to be set aside.

9. Considering the said submissions as well as the availability of the scheme which contemplates grant of temporary status to such of those casual labour engaged and worked for 240 or 206 days in a year as on 10.09.1993, appellant is directed to extend the benefit of such scheme to the respondents within a period of three months from the date of receipt of copy of this order and till such time, such of those respondents who are being engaged are directed to be engaged.

10. The order of the learned Single Judge is modified to that extent and appeal is disposed of in the above terms.
11. The contempt petition no. 37/2012 shall also stand closed.
12. No costs.

(Dhiraj Singh Thakur) (N. Paul Vasanthakumar)
Judge Chief Justice

Jammu,
18.11.2015
Anil Raina, Secy