

**HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT
JAIPUR**

D.B. Special Appeal Writ No. 767 / 2008

State of Rajasthan.... through
Divisional Forest Officer, Bundi.

----Appellants-Petitioners

Versus

1. Mahavir Prasad S/o Shri Mangla Dhakad
Village Arletha Tehsil Keshoraipatan Distt. Bundi.
2. The Judge, Labour Court, Kota.

---Non Appellants Respondents

For Appellant(s) : Mr. JM Saxena, AAG.

For Respondent(s) : Mr. Darshan Shree.

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE VIJAY KUMAR VYAS

Order

31/08/2017

(1) Heard learned Counsel for the parties.

(2) Mahavir Prasad was working as a daily wage employee in the Forest Department of the State of Rajasthan. His services were terminated. He alleged violation of Section 25-F of the Industrial Disputes Act, 1947. He succeeded before the labour Court. Vide award dated 12.08.1996 reinstatement with 50% back wages was ordered.

(3) Challenge to the order by the appellant resulted in the impugned order dated 14.07.2006.

(4) Noting that pursuant to the award the respondent had been reinstated in service the learned Single Judge granted relief

to the appellant by directing that 50% back wages directed as per the award need not be paid.

(5) But a direction was issued that the respondent would be regularised as per law.

(6) This has created a problem. What is the law which entitled a daily wager to be regularised has not been stated in the impugned order.

(7) The issue of regularization of daily wage employee was considered by a Constitution Bench of the Supreme Court in the decision reported as (2006) 4 SCC 1, Secretary, State of Karnataka & Ors. Vs. Umadevi (3) & Ors.

(8) In our opinion, without proper pleadings the learned Single Judge ought not to have directed regularization with consequential benefits.

(9) The award directed reinstatement which the appellant had given effect to.

(10) As regards back wages, 50% were directed to be paid by the labour Court, the workman has not challenged said part of the impugned order.

(11) The appeal is disposed of setting aside the direction in the impugned order that services of the respondent be regularised with consequential benefits.

(VIJAY KUMAR VYAS)J.

(PRADEEP NANDRAJOG)C.J.