Ghaziabad Development Authority & Ors vs Sri Vikram Chaudhary & Ors on 14 July, 1995

Equivalent citations: 1995 AIR 2325, 1995 SCC (5) 210, AIR 1995 SUPREME COURT 2325, 1995 AIR SCW 3457, 1995 LAB. I. C. 2474, 1995 ALL. L. J. 1786, (1995) 71 FACLR 462, (1995) 3 SERVLJ 239, (1995) 2 CURLR 595, (1995) 2 LABLJ 703, (1995) 31 ATC 129, (1995) 5 JT 636 (SC), (1995) 3 SCJ 390, (1995) 87 FJR 324, (1995) 3 ALL WC 1596, (1995) 4 SERVLR 582, (1995) 2 LAB LN 633, (1995) 4 SCT 400, 1995 (5) SCC 210, 1995 SCC (L&S) 1226

Author: K. Ramaswamy

Bench: K. Ramaswamy, B.L Hansaria

PETITIONER:
GHAZIABAD DEVELOPMENT AUTHORITY & ORS .

Vs.

RESPONDENT:
SRI VIKRAM CHAUDHARY & ORS.

DATE OF JUDGMENT14/07/1995

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
HANSARIA B.L. (J)

CITATION:
1995 AIR 2325 1995 SCC (5) 210
JT 1995 (5) 636 1995 SCALE (4)545

ACT:

HEADNOTE:

JUDGMENT:

ORDER Delay condoned.

Shri Pramod Swarup, Advocate takes notice for the respondents.

Leave granted.

We have heard the counsel on either side. The appeal arises from the order of single Judge of Allahabad High Court dated 28.2.1994 made in Civil Misc. Writ Petition No. 11535 of 1991. The appellant in its planned development of urban areas, pursuant to U.P. Urban Planning and Development Act, 1973, had engaged the respondents on daily wages in the project on hand. They filed a writ petition claiming parity in appointment and pay with the regular employees and also for regularisation of their services. The single Judge, while negating the relief of regularisation, given directions to follow the principles in ss. 25F and 25G of the Industrial Disputes Act.

Objention taken by the appellants is that ss. 25F and application. It is stated that as regards the State of U.P. there is a local Industrial Disputes Act and the provisions therein would be attracted, if Industrial Disputes Act is at all applicable to the appellant. It is contended that the appellant is not an industry and that, therefore, the principles contained in pari materia provisions in the local Act have no application.

We have gone through the judgment of the High Court. The learned judge did not intend to lay down that the appellant is an industry and that the principles contained in the Industrial Disputes Act, Central or the State Act stands attracted. What the learned Judge appears to have intended to lay down is that so long as the appellant has work on hand, it appellant has no power to terminate the contingent employees engaged on daily wages and that in the event the appellant needs to terminate their services the principle of last come first go should be followed and in the event of there being need for re-employment, preference be given to the displaced respondents. The observation made by the learned Judge is consistent with the well-established principles of natural justice and equity, justice and good conscience. Therefore,the learned Judge had rightly extended those principles with regard to the persons employed by the appellant on daily wages.

It is stated that by implication of the order there is need for the appellant to keep engaging the respondents even though there are no projects on hand. That apprehension also does not appear to be correct. The appellant needs to take the services of the persons according to the requirement in the projects on hand. On completion of the existing projects in which the respondents are working, if the appellant undertakes any fresh project, instead of taking the services of fresh hands at the place of the new project, the appellant needs to take the services of the existing temporary daily wage respondents. In the event of the appellant not having any project on hand, the obligation to pay daily wages to the respondents does not arise. However, the appellant shall maintain the order of seniority of the daily wage employees and shall take the services of the senior most persons in the order of seniority according to the requirement of work.

Since they are temporary daily wage employees, so long as there is no regular posts available for appointment, the question of making pay on par with the regular employees does not arise. But the appellant should necessarily and by implication, pay the minimum wages prescribed under the statute, if any, or the prevailing wages as available in the locality.

The appeal is accordingly disposed of. No costs.