

## **The Executive Engineer(State Of ... vs K. Somasetty & Ors on 2 May, 1997**

**Equivalent citations: AIR 1997 SUPREME COURT 2663, 1997 AIR SCW 2627, 1997 LAB. I. C. 2651, (1997) 91 FJR 322, (1997) 76 FACLR 851, (1997) 3 LAB LN 69, (1997) 2 CURLR 387, (1998) 2 KANT LJ 272, (1997) 2 LABLJ 698, 1997 LABLR 769, (1997) 3 SCT 277, 1997 (5) SCC 434, 1997 SCC (L&S) 1229, (1997) 4 SERVLR 582, (1997) 6 SUPREME 13, (1997) 4 SCALE 304, (1997) 5 JT 611 (SC)**

**Bench: K. Ramaswamy, D.P. Wadhwa**

PETITIONER:

THE EXECUTIVE ENGINEER(STATE OF KARNATAKA)

Vs.

RESPONDENT:

K. SOMASETTY & ORS.

DATE OF JUDGMENT: 02/05/1997

BENCH:

K. RAMASWAMY, D.P. WADHWA

ACT:

HEADNOTE:

JUDGMENT:

**O R D E R** Leave granted.

The respondent was appointed on daily wages in a project taken up by the appellant and July 25, 1986. The respondent was discharged from the work on its closure on January 15, 1989. Thereafter, he approached the Labour Court under Section 10 of the Industrial Disputes Act. On a reference, the Labour Court held that the respondent is entitled to continuity of service with back wages since it amounts to dismissal. The order was confirmed by the learned single Judge of the High Court subject to payment of 50% of the back wages. Writ Appeal No. 878/96 was dismissed by the Division

Bench. Thus, this appeal by special leave.

It is now well settled legal position that the Irrigation Department and Telecommunication Department are not an 'Industry' within the meaning of definition under the industrial Disputes Act as held in Union of India vs. Jai Narayan Singh [(1995) Supp. 4 672] and in the State of H.P. s. Suresh Kumar Verma [JT 1996 (2) 455]. The function of public welfare of the State is a sovereign function. It is the constitutional mandate under the Directive Principles, that the Government should bring about welfare State by all executive and legislative actions. Under these circumstances, the State is not an 'industry' under the Industrial Disputes Act. Even otherwise, since the Project has been closed, the respondent has no right to the post since he had been appointed on daily wages. It is brought to our notice that respondent has reinstated. The order of the reinstatement has been placed before us which indicates that at the threat of contempt of Court, the order has been enforced. it is stated therein that it is subject to the final order of this Court in this appeal.

Under these circumstance, the appeal is accordingly allowed. The order of the Labour Court stands set side. The order and judgment too stand set aside.