

Mool Raj Upadhyaya vs State Of H.P on 19 April, 1994

Equivalent citations: 1994 SCC, SUPL. (2) 316 JT 1994 (3) 453, AIR ONLINE 1994 SC 439

Bench: S.C. Agrawal, S.P Bharucha

PETITIONER:

MOOL RAJ UPADHYAYA

Vs.

RESPONDENT:

STATE OF H.P

DATE OF JUDGMENT 19/04/1994

BENCH:

VENKATACHALLIAH, M.N. (CJ)

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VENKATACHALLIAH, M.N. (CJ)

AGRAWAL, S.C. (J)

BHARUCHA S.P. (J)

CITATION:

1994 SCC Supl. (2) 316 JT 1994 (3) 453

1994 SCALE (2) 630

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. The petitioners in these writ petitions filed under Article 32 of the Constitution are employed on daily-wage basis in the Irrigation and Public Health Wings of the Himachal Pradesh Public Works Department. They are Class III and Class IV employees who are being paid their daily wages as per the minimum wages prescribed by the Government of Himachal Pradesh from time to time. A number of them have been thus employed for more than ten years. They have sought regularisation of their services as well as for payment of the same salary, allowances and other benefits as are being given to the regular employees on the principle of 'equal pay for equal work'. The wages that are

being paid to the petitioners who fall in the unskilled category are at Rs 22 per day. Shri Ashwini Gupta, the learned counsel for the petitioners, has invited our attention to the notifications of the Government of Himachal Pradesh dated 15-5-1990, 23-8-1991 and 20-6-1992, whereby the rates for Class III and Class IV daily-wage staff have been fixed by the Government of Himachal Pradesh from time to time. Under the notification dated 15-5-1990, daily wage at the rate of Rs 34.50 was fixed with effect from 1-5-1990 for Peon, Chowkidar/Sweeper/Farrash/Mali/Rasoia and other Class IV employees. By notification dated 23-8-1991, the said rate was enhanced to Rs 37.75 per day with effect from 1-5-1991 and by notification dated 20-6-1992, it was further enhanced to Rs 42.40 per day with effect from 1-6-1992.

2.A Scheme for Betterment (Appointment) Regularisation of Muster-Roll/Daily-Wagers in Himachal Pradesh has been prepared by the Government of Himachal Pradesh and the same has been placed on record along with the supplementary affidavit of Shri K.J.B.V. Subramanyam dated 7-12-1992 in WP (C) No. 249 of 1988.

3.We have heard the learned counsel for the parties. Apart from oral submissions in the Court, the learned counsel have also submitted written submissions. Along with written submissions that have been filed on behalf of the State of Himachal Pradesh, figures have been given showing additional financial obligations resulting from the daily- wage workers being paid the wages at the rates prescribed in the notifications issued by the State Government referred to above as well as on account of the daily-wage workers who have completed 10 years' service being placed on work-charge cadre. Having regard to the additional financial obligations that may be incurred by the proposed scheme for regularisation, as modified, we are of the opinion that the State should not be burdened with the financial obligations arising out of payment of arrears for the period prior to 1-1-1994 and the said scheme, as modified, may be brought into operation with effect from 1-1-1994.

4.Taking into consideration the facts and circumstances of the case, we modify the said scheme by substituting paragraphs 1 to 4 of the same by the following paragraphs :

" (1) Daily-wage/muster-roll workers, whether skilled or unskilled, who have completed 10 years or more of continuous service with a minimum of 240 days in a calendar year on 31-

12-1993, shall be appointed as work-charged employees with effect from 1-1-1994 and shall be put in the time-scale of pay applicable to the corresponding lowest grade in the Government;

(2)daily-wage/muster-roll workers, whether skilled or unskilled, who have not completed 10 years of continuous service with a minimum of 240 days in a calendar year on 31-12-1993, shall be appointed as work-charged employees with effect from the date they complete the said period of 10 years of service and on such appointment they shall be put in the time- scale of pay applicable to the lowest grade in the Government;

(3)daily-wage/muster-roll workers, whether skilled or unskilled who have not completed 10 years of service with a minimum of 240 days in a calendar year on 31-12-1993, shall be paid daily wages at

the rates prescribed by the Government of Himachal Pradesh from time to time for daily-wage employees falling in Class III and Class IV till they are appointed as work-charged employees in accordance with paragraph 2;

(4) daily-wage/muster-roll workers shall be regularised in a phased manner on the basis of seniority-cum-suitability including physical fitness. On regularisation they shall be put in the minimum of the time-scale payable to the corresponding lowest grade applicable to the Government and would be entitled to all other benefits available to regular government servants of the corresponding grade."

5. The scheme, as modified, shall be implemented with effect from 1-1-1994 and if any excess amount has been received by any employee on the basis of the interim orders passed by this Court, the same shall not be required to be refunded by him.

6. The writ petitions shall stand disposed of in terms of the aforesaid directions. Contempt petition No. 342 of 1991 is dismissed. No orders as to costs.