

Supreme Court of India

State Of Himachal Pradesh, ... vs Ashwani Kumar & Ors on 3 January, 1996

Equivalent citations: 1996 AIR 960, 1996 SCC (1) 683

Author: B S.P.

Bench: Bharucha S.P. (J)

PETITIONER:

STATE OF HIMACHAL PRADESH, THROUGH THE SECRETARY (RURALDEVEL

Vs.

RESPONDENT:

ASHWANI KUMAR & ORS.

DATE OF JUDGMENT: 03/01/1996

BENCH:

BHARUCHA S.P. (J)

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BHARUCHA S.P. (J)

AHMAD SAGHIR S. (J)

CITATION:

1996 AIR 960 1996 SCC (1) 683

JT 1996 (1) 1 1996 SCALE (1)57

ACT:

HEADNOTE:

JUDGMENT:

O R D E R Leave granted.

Heard Counsel on both sides.

The facts are that the respondent was engaged on daily wages on muster roll basis in Central Scheme and were paid out of the funds provided by the Central Government. It is stated that after the scheme was closed their services were dispensed with. When the respondents filed the writ petition in the High Court, the High Court gave interim direction dated 6th January, 1993 and directed them to be re-engaged elsewhere. Pursuant to the interim direction the writ petition came to be disposed of on March 9, 1993. Thus this appeal by special leave.

It is seen that when the project is completed and closed due to non-availability of funds, consequently, the employees have to go along with the closed project. The High Court was not right

in giving the direction to regularise them or to continue them in other places. No vested right is created in temporary employment. Directions cannot be given to regularise their services in the absence of any existing vacancies nor directions be given to create posts by the State to a non-existent establishment. The Court would adopt pragmatic approach in giving directions. The directions would amount to creating of posts and continuing them in spite of non-availability of the work. We are of considered view that the directions issued by the High Court are absolutely illegal warranting our interference. The order of the High Court is set aside.

The appeal is allowed. No Costs.