

(2019) 09 SC CK 0121

Supreme Court Of India

Case No: Civil Appeal Nos. 10064, 10075 Of 2010, 1839, 1841 Of 2014

Pandurang Sitaram Jadhav
Etc.Etc.

APPELLANT

Vs

State Of Maharashtra Through
Its Dairy Manager & Anr

RESPONDENT

Date of Decision: Sept. 25, 2019

Acts Referred:

- Constitution Of India, 1950 - Article 32, 226
- Maharashtra Recognition Of Trade Unions & Prevention Of Unfair Labour Practices Act, 1971 - Section 15, 28, 30(1)(b)

Citation: (2019) 4 ESC 974 : (2019) 163 FLR 513 : (2019) 4 SCT 735

Hon'ble Judges: Sanjay Kishan Kaul, J; M.R. Shah, J

Bench: Division Bench

Advocate: Vinay Navare, Gwen Karthika, Abha R. Sharma, Venkateswara Rao Anumolu, Nishant Ramakantrao Katneshwarkar, Anoop Kandari, Debasis Misra

Final Decision: Allowed

Judgement

Sr. No., Complaint No., Date of appointment, "Date of completion of 240 days as per written statement

1., 951/2001, 16.10.1984, 11.12.1984

2., 952/2001, 13.10.1983, 11.12.1984

3., 953/2001, 1.09.1983, 18.11.1985

4., 954/2001, 5.9.1986, 21.9.1988

5., 957/2001, 1.7.1986, 29.9.1989

6.,958/2001,26.6.1987,29.9.1989

7.,959/2001,14.11.1986,3.9.1987

8.,960/2001,18.11.1986,25.11.1987

9.,961/2001,1.11.1985,23.11.1986

10.,926/2001,16.9.1987,13.10.1988

11.,4/2002,16.10.1984,19.10.1986

9. The aforesaid aspect and the judgments stand further clarified and elucidated in Maharashtra State Road Transport Corporation and Anr. v.,,,

Casteribe Rajya Parivahan Karmchari Sanghtana (2009) 8 SCC 55.6 The said judgment of this Court deals with a State Act and opined that the

powers of the Industrial and Labour Court are wide which concludes the issue of according permanent employment affected by the unfair labour,,,

practice. Such power was not to be affected by Umadevi's case (supra) as that was a case limited to the scope of powers being exercised under,,,

Articles 32 and 226 of the Constitution of India for regularization and matter of public importance. Thus, the power to take affirmative action under",,,

Section 30 (1) (b) remained intact. Section 30(1)(b) is extracted hereunder:,,,

Section 30. Powers of Industrial and Labour Courts,,,

(1) Where a Court decides that any person named in the complaint has engaged in, or is engaging in, any unfair labour practice, it may in its order-",,,

(a) xxx xxx,,,

(b) direct all such person to cease and desist from such unfair labour practice, and take such affirmative action (including payment of reasonable",,,

compensation to the employee or employees affected by the unfair labour practice, or reinstatement of the employee or employees with or without",,,

back wages, or the payment of reasonable compensation), as may in the opinion of the Court be necessary to effectuate the policy of the Act;"",,,

10. Thus the finding of unfair labour practice of engaging persons on contract basis over a long period of time was held to be an aspect which could be,,,

enquired into by the Labour Court.,,,

11. Our attention was also drawn to the earlier judgment of this Court in U.P. State Electricity Board v. Pooran Chandra Pandey & Ors (2007) 11,,,

SCC 92. which propounds the same proposition albeit in a different factual and regulatory framework.,,,

12. In view of the aforesaid facts as also the legal pronouncements made subsequently, we have no doubt that these appellants before us would be",,,

entitled to the benefit of regularization and mere delay in preferring the claim would not come in their way except that the benefit of regularization,,,

would arise from the date the complaints were filed.,,,

13. The finding of an unfair labour practice by the Tribunal has in fact been confirmed by the learned Single Judge in the present case and the only,,,

two reasons for interference by the Division Bench relating to Umadeviâ€™s case (supra) have already been explained in the aforesaid subsequent,,,

judgments.,,,

14. We thus, direct the respondents to regularize the appellants accordingly and the necessary orders be issued within three months from the date of",,,

the order.,,,

15. The benefits which the appellants would be entitled should also be remitted to the appellants within the same period from the date of the,,,

complaints, though the earlier period would be counted Â for the purpose of calculation of benefits without the appellants being monetarily entitled for",,,

that period.,,,

16. The appeals are allowed leaving the parties to bear their own costs.,,,