

A

P.S.E.B. AND ANR.

v.

WAZIR SINGH

MARCH 11, 2002

B

[S. RAJENDRA BABU, K.G. BALAKRISHNAN AND  
P. VENKATARAMA REDDY, JJ.]

*Labour Laws:*

C

*Petition by daily wager for absorption as work-charged employee—Circular—Eligibility conditions for absorption—500 days as daily wage worker and should be in continuous service when Circular was issued—Trial Court decreed the suit—Appeal rejected—On second appeal, High Court found that there was no stipulation that the daily wager should be actually in service—*

D

*On appeal, Held: When two conditions have been imposed, no part of it could have been ignored—Matter remitted to High Court.*

Appellant-Punjab State Electricity Board issued certain instructions in connection with absorption of daily wagers as work-charged employees. Respondent filed a suit for consideration of his case for absorption. Trial Court decreed the suit. In appeal by P.S.E.B. the appellate Court noticed that the respondent had completed 500 days as daily wage worker by the cut-off date and thus entitled to be absorbed as work-charged employee. In second appeal to the High Court, Board contended that eligibility conditions as issued vide its Circular were that not only the daily worker should have completed 500 days of service by the cut-off date but also must continue to be in the service of the Board. High Court dismissed the appeal on the basis that there was no such stipulation in the Circular that daily wage worker should be actually in service. Hence this appeal by the Board.

F

Allowing the appeal, the Court

G

**HELD:** Two conditions had been imposed; firstly that the concerned daily wage worker should not only put in 500 working days in service upto the cut-off date, and secondly, he should be in continuous service upto the date of issuance of the Circular in order to become eligible to be converted into work charged employee. High Court read the Circular only upto the cut-off date and not thereafter. Second part could not have been ignored at all.

H

The matter is remitted to the High Court for fresh consideration on this aspect with reference to facts arising in the case. [382-D-E] A

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3221 of 2000.

From the Judgment and Order dated 5.10.99 of the Punjab and Haryana High Court in R.S.A. No. 3825 of 1999. B

WITH

C.A. Nos. 3223, 3222, 3229 and 3230 of 2000.

Harinder Mohan Singh and Anil Hooda for the Appellants. C

L.N. Gupta (NP) for the Respondent.

The Judgment of the Court was delivered by

**RAJENDRA BABU, J.**

*C.A.No. 3221 of 2000* D

The respondent brought a suit on the basis of certain instructions issued by the appellant-Board for absorption of daily-wage workers to work-charged establishment who had completed 500 days of service. While the Trial Court did not have the benefit of the circular, the appellate court did have the benefit of that circular dated 19.9.1991. The Trial Court, however, decreed the suit. E

In the appeal, the appellate court noticed that the respondent in each of these cases had completed 500 days as daily-wage worker by the cut-off date, which had been extended from time to time. Thus it was found that the respondent in each of the cases was entitled to be absorbed as work-charged worker. But the appellant-Board had not considered his case while passing the order impugned in the suit and, therefore, he was entitled to be absorbed as work-charged worker by conversion from daily wage worker to the work-charged establishment. F

The matter was carried in second appeal to the High Court. The principal contention put forth before the High Court is that not only the daily wage worker should have 500 days of service by the cut-off date but also must continue to be in the service of the Board on the date of issuance of the circular. The High Court, however, found that there was no stipulation that such a daily wage worker should be actually in service on the date of issuance of the circular and on that basis dismissed the second appeal. Hence, this G H

A appeal by special leave.

The relevant portion of the circular dated 19.9.1991 reads as follows:

B “The matter regarding conversion of daily wage workers into work-charge has been reviewed by the Board and it has been decided that all daily wage workers who have put in 500 working days in the service of the Board upto thirteenth September eighty eight [30.9.88] and are continuing in service of Board shall be eligible to be converted into work-charge workers. These conversions will be subject to availability of work charge posts and no further appointments will be made on daily wage basis.”

C The High Court read the circular only upto the cut-off date and not thereafter. The latter part, which clearly states “*and are continuing in service of Board*” in order to become eligible to be converted into work charged employees was lost sight of by the High Court. Therefore, it was held that the sole condition to be fulfilled was that the daily wage worker should have put in 500 working days upto the cut-off date. That interpretation will not be correct in the circumstances of the case, when two conditions had been imposed; firstly that the concerned daily wage worker should not only put in 500 working days in service upto the cut-off date, and secondly, should be in continuous service upto the date of issuance of the circular in order to become eligible to be converted into work charged employees. The second aspect could not have been ignored at all.

E The appeal is, therefore, allowed, the order made by the High Court is set aside and the matter shall stand remitted to the High Court for fresh consideration on this aspect of the matter with reference to facts arising in the case.

F C.A. Nos. 3223/2000, 3222/2000, 3229/2000 & 3230/2000.

G The question raised in each of these appeals is in identical to that of C.A. No. 3321/2000. Following the said decision and for the reasons stated therein, these appeals are allowed in the same terms as set forth therein.

S.K.S.

Appeals allowed.