

State of H.P., through the Secretary (Rural Development) to the Govt. of H.P., Shimla

Vs

Ashwani Kumar and Others

Civil Appeal No. 1538 of 1996

(K. Ramaswamy, G.B. Pattanaik JJ)

03.01.1996

ORDER

1. Leave granted.
2. Heard counsel on both sides.
3. The facts are that the respondents were 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 respondent filed the writ petition in the High Court, the High Court gave interim direction dated 6-1-1993 and directed them to be re-engaged elsewhere. Pursuant to the interim direction the writ petition came to be disposed of on 9-3-1993. Thus this appeal by special leave.
4. 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 can 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 the 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.
5. The appeal is allowed. No costs.