

**SUPREME COURT OF INDIA**

Regional Manager, U.P.S.R.T.C.

Vs.

Kamal Kumar

Review Petition No. 1886 of 2003

(Mrs.Ruma Pal and Arun Kumar JJ.)

19.07.2004

**ORDER**

The Order of the Court is as follows

1. The petitioners have sought for review of an earlier order passed by this Court whereby the special leave petition filed by the petitioners was dismissed. The special leave petition had been filed impugning an order of the High Court which had refused to interfere with the Award of the Labour Court. The Labour Court's Award had been passed accepting the claim of the respondent that his termination from service by the petitioner was illegal. The Labour Court found, as a fact, that the respondent was employed as a daily wager for several years by the petitioners. It also found that the petitioner had terminated the service of the respondent and that the termination of service was illegal. It accordingly directed reinstatement of the respondent with continuity of service but since the respondent was a daily wage employee, on the principle of 'no work no pay' no backwages were given from the date of the termination of the respondent's services. It was, however, directed that the respondent would be entitled for 'salary and all other benefits which he would have got while remaining in continuous service.'

2. The review petition was filed on the assumption that this Court had directed the petitioner to absorb the respondent against a regular post. Therefore, in the review petition it has been stated that it was not possible to comply with the directions because there were only 101 Class IV sanctioned posts and that there were already 161 employees working against the sanctioned posts.

3. We make it clear that we had not directed the respondent to be regularised not to be appointed against any substantive vacancy. The Labour Court Award which we affirmed merely directed the status quo ante, as if the order of termination had not been passed. Therefore, the respondent continues to remain a daily wager.

4. However, since the Labour Court had granted relief on the basis of the continuous service

of the respondent we think it appropriate to recall our earlier order and to dispose of the special leave petition by directing the petitioner;

“(1) to reinstate the respondent as daily wager as directed by the Labour Court,

(2) if there is any scheme for regularisation of daily wagers such as the respondent, the petitioners shall grant the respondent such relief taking into consideration his past service.”

5. The Court has not directed any payment for the period subsequent to the Award of the Labour Court in view of the assertion by the learned counsel appearing on behalf of the petitioner that the provisions of Section 17 B of the *Industrial Disputes Act, 1947* have all along been complied with.

6. The review petition is disposed of accordingly.