

CENTRAL WELFARE BOARD AND ORS.

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v.

MS. ANJALI BEPARI AND ORS.

AUGUST 2, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

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Service Law :

Central Social Welfare Board Scheme—Gram Sevika—Appointment against casual vacancy—Claim for regularisation—Single Judge of High Court rejecting the claim—Division Bench directing regularisation of the employee—Appeal by the Board contending that the project under which the respondent was engaged is being wound up in a phased manner and services of employees are being dispensed with—No person junior to respondent was allowed to continue—There are other projects being operated similarly and persons engaged therein are continuing on temporary basis and are senior to the respondent—Held, the Board will continue the respondent in any other temporary scheme but keeping in mind the overall seniority of all the persons—The dispensing with the services should be on last-come first-go basis—When vacancies arise the persons whose services have been dispensed with will be taken back without requisitioning names of candidates from employment exchange.

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CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
No. 16906 of 1996.

From the Judgment and Order dated 24.1.96 of the Calcutta High Court in F.M.A.T. No. 16 of 1995.

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S.W.A. Qadri and L.R. Singh for the Petitioners.

Bijan Kr. Ghosh for the Respondent No. 1.

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The following Order of the Court was delivered :

Mr. Bijan Kumar Ghosh, Advocate takes notice for respondent No. 1.

It is not in dispute that the respondent came to be appointed against a casual vacancy in the Central Social Welfare Board Scheme. The respon-

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A dent has been continuing ever since the date of appointment, namely, February 11, 1992. She filed writ petition in the Calcutta High Court for direction to regularise her services. The learned Single Judge held in the judgment that that she was not entitled to regularisation as the mode of her appointment was not in accordance with the rules. In the impugned order dated January 24, 1996, the Division Bench in FMAT No. 16/95 reversed the order of the learned Single Judge and directed regularisation of the services of the respondent as under :

C "The appeal, therefore, succeeds. The judgment and order of the trial court is set aside. The writ application is allowed. The respondents are directed to regularise the service of the appellant in the post of Gram Sevika with effect from the date she completed three years of service in the concerned Project positively within two months from date and also to pay her arrears salaries and other benefits, if any, within the aforesaid period."

D Calling this order in question, this SLP has been filed. It is not in dispute that the project is being wound up in a phased manner and the services of the employees are being dispensed accordingly. It is stated by the learned counsel for the petitioners that no junior to the respondent was allowed to continue in the said project. It is stated that there are other project being operated similarly, but the persons engaged therein also are continuing on temporary basis and are senior to the respondent. Therefore, she cannot be regularised in any other scheme. In view of the above stand, we direct the petitioners to continue the respondent in any other temporary scheme but keeping in mind the overall seniority of all the persons; the dispensing with the services should be on last-come-first-go basis, i.e., the juniormost incumbent has to go out first. As and when vacancies would arise, such persons whose services have been dispensed with will be taken back without following the practice of requisitioning the names of candidates from the employment exchange. They would be regularised only when regular posts are available and in accordance with the order of seniority.

The special leave petition is accordingly ordered.

R.P.

Petition ordered.