

STATE OF HIMACHAL PRADESH, THROUGH
THE SECRETARY RURAL DEVELOPMENT TO THE GOVT. OF
HIMACHAL PRADESH, SHIMLA

v.

ASHWANI KUMAR AND ORS.

JANUARY 3, 1996

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

Constitution of India, 1950 :

Articles 226, 136—Daily wagers on muster roll—Paid from funds provided by Central Government project completed and closed due to non-availability of funds—Services dispensed with—Writ Petition—High Court ordering re-engagement of the employees—On appeal held: no vested right is created on temporary employment—Non-availability of vacancies—Courts to adopt pragmatic approach—Regularisation/Creation of posts cannot be directed—Service Law—Regularisation.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1538 of 1996.

From the Judgment and Order dated 9.3.93 of the Himachal Pradesh High Court in C.W.P. No. 18 of 1992.

B. Dutta and Naresh K. Sharma for the appellant.

Devendra Singh for the Respondents.

The following Order of the Court was delivered :

Leave granted.

Heard Counsel on both sides.

The facts are that the respondent was 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 respondents filed the writ petition in the High Court, the High Court gave interim direction dated 6th January, 1993 and directed them to be re-engaged else where, Pursuant to the interim direction the writ petition came to be disposed of on March 9, 1993. Thus this appeal by special leave.

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 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 considered view that the directions issued by the High Court are absolutely illegal warranting our interference. The order of the High Court is set side.

The appeal is allowed. No Costs.

Appeals allowed.