

HIGH COURT OF MADHYA PRADESH: JABALPUR
(Division Bench)

W.A. No. 471/2014

Madhyanchal Gramin Bank and others
– V/s –
Neeraj Kumar Barman and others

WITH

W.A. No. 460/2014

Madhyanchal Gramin Bank and others
– V/s –
Ravi Shanker Shah

W.A. No. 461/2014

Madhyanchal Gramin Bank and others
– V/s –
Rajesh Kumar Patel

W.A. No. 462/2014

Madhyanchal Gramin Bank and others
– V/s –
Shyam Lal Shah

W.A. No. 463/2014

Madhyanchal Gramin Bank and others
– V/s –
Ram Niwas Shah

W.A. No. 464/2014

Madhyanchal Gramin Bank and others
– V/s –
Sukh Lal Gupta

W.A. No. 465/2014

Madhyanchal Gramin Bank and others
– V/s –
Dinesh Prasad Verma

W.A. No. 467/2014

Madhyanchal Gramin Bank and others
– V/s –
Jai Prakash Patel

W.A. No. 473/2014

Madhyanchal Gramin Bank and others
– V/s –
Amrendra Singh and others

W.A. No. 474/2014

Madhyanchal Gramin Bank and others
– V/s –
Ramlakhan Jaiswal

AND

W.A. No. 475/2014

Madhyanchal Gramin Bank and others
– V/s –
Pushpendra Kumar Pandey

CORAM :

Hon'ble Shri Justice Hemant Gupta, Chief Justice
Hon'ble Shri Justice Vijay Kumar Shukla, Judge

Present:

Shri V.S. Shroti, Senior Advocate with Shri Amit Nagpal,
Advocate for the appellants.

Shri Rajesh Maindiretta, Advocate for the respondent in W.A.
No.471/2014.

Shri Rajneesh Gupta, Advocate for the respondent in W.A.
No.473/2014.

Shri Manoj Chandurker, Advocate for the respondents in
W.A.Nos.474/2014 and 475/2014.

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| Whether Approved for Reporting: | YES |
| Law Laid Down: | A daily wager, by the nomenclature itself, is not a regular employee as there is no established employer and employee relationship. Therefore, he has no right against the employer except as may be available to him under applicable laws such as Industrial Disputes Act, 1947. Prohibition against the employer not to terminate services of a daily wager cannot be sought as it is not even available to regular employee. |
| Significant Paragraph Nos. | 7 |

J U D G M E N T (Oral)
(10-07-2017)

Per : Hemant Gupta, Chief Justice:

The challenge in the present appeals is to an order passed by the learned Single Bench on 3.12.2013 whereby the appellants were prohibited to hand over the daily wagers appointed by the erstwhile Regional Rural Banks to private agency and to allow them in service as engaged by the erstwhile Regional Rural Banks on the same terms and conditions.

2. The said order dated 3.12.2013 was made basis to decide many other writ petitions which were allowed and all such writ appeals against the said orders are being taken up for analogous hearing. Since the impugned order has been rendered in Writ Petition No.196/2013 (Rajesh Kumar Patel v. Madhyanchal Gramin Bank and others), the facts are taken from the said appeal itself being Writ Appeal No.461/2014.

3. The writ-petitioners were engaged as daily-rated employees. In November, 2012, the Central Government issued a Notification (Annexure A/1) whereby a decision was taken by the Central Government for amalgamation of three Regional Rural Banks with Madhyanchal Gramin Bank, the present appellants, with its

Headquarter at Sagar. The condition of the status of the employees is contained in Clause 7 of the said circular, which reads as under:-

“7(a) The service of all the employees of the transferor Regional Rural Banks (excepting such of them as not being workmen within the meaning of the Industrial Disputes Act, 1947) shall continue in the transferee Regional Rural Bank at the same remuneration and on the same terms and conditions of service, which they were getting or, as the case may be, by which they were governed immediately before the effective date of amalgamation.

(b) The inter-se-seniority of officers and employees, directly recruited or promoted, to be decided by the Committee representing the sponsor bank and the National Bank for Agriculture and Rural Development.”

However, in respect of daily wage employees, circular Annexure R-2 was issued on 12.12.2012 wherein it was pointed out that the services of daily wagers be dispensed with as the work shall be entrusted to a private agency. It is the said decision in respect of which the Court passed an order in view of the statement of the learned counsel for the Bank that as on that date, the services of the writ petitioners were not being dispensed with. Relevant operative part of the said order dated 3.12.2013, reads as under:-

“Furthermore, during course of hearing it has been expressed by learned Senior Counsel appearing for the Madhyanchal Gramin Bank, that the services of the petitioners are not being dispensed with presently. If that is so, the respondents are prohibited to hand over the daily wagers appointed by the transferor Regional Rural Bank to private agency and continue them in service as engaged by the erstwhile

Regional Rural Banks on the same terms and conditions as was applicable to them. To this extent the communication dated 12.12.2012 is quashed.”

4. While issuing notices of the present appeals, an order was passed by the Bench on 27.06.2014 wherein the operation of the impugned order was stayed subject to the condition that the services of the respondents-employees shall not be dispensed with except after following the due process of law.

5. Learned counsel for the appellants vehemently argued that the daily wage employees have no right against their employer except as may be available to them in respect of applicable laws such as Industrial Disputes Act, 1947. There cannot be any order in perpetuity not to terminate the services of daily wagers, as has been ordered by the learned Single Bench.

6. We have heard learned counsel for the parties. We find merit in the argument raised by the learned Senior Counsel for the appellants.

7. A daily wager, by the nomenclature itself, is not a regular employee of the Bank. They might have been inducted as daily wagers without following the procedure to fill up a public post. Such daily wagers have a protection under the Industrial Disputes Act, 1947 but there cannot be any prohibition not to terminate their services and to continue them in service as engaged by the erstwhile Regional Rural

Banks. In fact, such protection is not available even to the regular employees much less to the daily wagers, who have no established employer and employee relationship.

8. Considering the aforesaid, we find that the orders passed by the learned Single Bench are not sustainable. Accordingly, the same are set aside. However, the services of the workmen can be dispensed with as and when it is considered appropriate by following due process of law. With the said direction and liberty, the writ appeals shall stand **disposed of**.

(HEMANT GUPTA)
CHIEF JUSTICE

(VIJAY KUMAR SHUKLA)
JUDGE

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