

A STATE OF HIMACHAL PRADESH, THROUGH
THE SECRETARY AGRICULTURE TO THE GOVT. OF
HIMACHAL PRADESH, SHIMLA

v.

NODHA RAM AND ORS.

B JANUARY 3, 1996

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

Constitution of India, 1950 :

C 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. 1539 of 1996.

E From the Judgment and Order dated 18.11.92 of the Himachal Pradesh High Court in C.W.P. No. 860 of 1992.

Naresh K. Sharma for the Appellant.

Uma Datta for the Respondents.

F The following Order of the Court was delivered :

Leave granted.

Heard Counsel on both sides.

G 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 respondents filed the writ petition in the High Court, the High Court gave interim direction on November 18, 1992 and directed their re-engagement elsewhere. Against the aforesaid interim direction, this appeal by special leave has been filed.

It is seen that when the project is completed and closed due to non-availability of funds, the employees have to go along with its closure. 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 the State to create posts in a non-existent establishment. The Court would adopt pragmatic approach in giving directions. The directions would amount to creating of posts and continuing them despite 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, therefore, set aside.

The appeal is accordingly allowed. No costs.

G.N.

Appeal allowed.