

CASE NO.:
Appeal (civil) 4454-4466 of 2000

PETITIONER:
Marathwada Agricultural University & Ors

RESPONDENT:
Marathwada Krishi Vidyapith, M.S.K.S. & Ors

DATE OF JUDGMENT: 29/08/2007

BENCH:
Dr. ARIJIT PASAYAT & S.H. KAPADIA

JUDGMENT:
J U D G M E N T

CIVIL APPEAL NOS. 4454-4466 OF 2000

Dr. ARIJIT PASAYAT, J.

1. The present appeals are directed against the judgment of a Division Bench of the Bombay High Court. Several Writ Petitions were disposed of by the High Court. These writ petitions were filed either by the Unions of the workers of the Marathwada Agricultural University (hereinafter referred to as the 'University') or by the employees of the University against the State of Maharashtra and against the University. The primary grievance was that qualification, nature of work, duties and responsibilities of the work of labourers who were daily rated labourers are same as that of permanent labourers employed by the University. Even then the daily rated workers were getting far less wages than the emoluments which were being paid to permanent labourers. It was also submitted that the Maharashtra Mumbai Wages Commission constituted under the Minimum Wages Act, 1948 had fixed the rate of wages depending upon the zones in the Marathwada region. But the University paid these daily rated workers far less.

2. The High Court held that denial of the appropriate wages to the daily-rated workers amounted to exploitation of labour. The Government cannot take advantage of its dominant position by forcing them to work as casual labourers on starvation wages. Therefore, it was directed that the daily rated workers were to be paid wages with effect from 1st May, 1988 at the rate of basic pay i.e. at the minimum of the pay scale plus dearness allowance divided by 26.

3. The directions in essence were as follows:

"Therefore it is being directed that if the daily rated workers are being given paid weekly off, then they be paid the wages at the rate of basic pay (at the minimum of the pay scale) plus dearness allowance divided by 30; and if paid weekly off is not being given to the daily rated workers, then they be paid wages at the rate of basic pay (at the minimum of the pay scale)

plus dearness allowance divided by 26. Such payment should be on the basis of the categories of the daily rated workers, such as, skilled, semi-skilled, or unskilled, as the case may be."

4. Learned counsel for the appellant submitted that the workers were seasonal workers and the question of regularization does not arise in view of what has been stated by this Court in *Secretary, State of Karnataka & Ors. v. Uma Devi and Ors.* [2006 (4) SCC 1].

5. Learned counsel for the respondents on the other hand submitted that there is no question of regularization but of parity of pay. A dispute has been raised by the appellant that the Industrial Disputes Act, 1947 (in short the 'ID Act') was not applicable because the University was not an industry. It was also submitted that the High Court's direction is to work out applicable norms.

6. Considering the peculiar nature of the controversy, we feel that a committee should be constituted for the purpose of rationalization of the wages to be paid to the concerned workers. In *Uma Devi's case* (supra) in paras 20 & 21 it was noted as follows:

"The decision in *Dharwad Distt. PWD Literate Daily Wage Employees Assn. v. State of Karnataka* (1990(2)SCC 396) dealt with a scheme framed by the State of Karnataka, though at the instance of the Court. The scheme was essentially relating to the application of the concept of equal pay for equal work but it also provided for making permanent, or what it called regularization, without keeping the distinction in mind, of employees who had been appointed ad hoc, casually, temporarily or on daily-wage basis. In other words, employees who had been appointed without following the procedure established by law for such appointments. This Court, at the threshold, stated that it should individualise justice to suit a given situation. With respect it is not possible to accept the statement, unqualified as it appears to be. This Court is not only the constitutional court, it is also the highest court in the country, the final court of appeal. By virtue of Article 141 of the Constitution, what this Court lays down is the law of the land. Its decisions are binding on all the courts. Its main role is to interpret the constitutional and other statutory provisions bearing in mind the fundamental philosophy of the Constitution. We have given unto ourselves a system of governance by rule of law. The role of the Supreme Court is to render justice according to law. As one jurist put it, the Supreme Court is expected to decide questions of law for the country and not to decide individual cases without reference to such principles of law. Consistency is a virtue. Passing orders not

consistent with its own decisions on law, is hound to send out confusing signals and usher in judicial chaos. Its role, therefore, is really to interpret the law and decide cases coming before it, according to law. Orders which are inconsistent with the legal conclusions arrived at by the court in the selfsame judgment not only create confusion but also tend to usher in arbitrariness highlighting the statement, that equity tends to vary with the Chancellor's foot.

In Dharwad case (supra) this Court was actually dealing with the question of "equal pay for equal work" and had directed the State of Karnataka to frame a scheme in that behalf. In para 17 of the judgment (in SCC), this Court stated that the precedents obliged the State of Karnataka to regularise the services of the casual or daily/monthly-rated employees and to make them the same payment as regular employees were getting. Actually, this Court took note of the argument of counsel for the State that in reality and as a matter of statecraft, implementation of such a direction was an economic impossibility and at best only a scheme could be framed. Thus a scheme for absorption of casual/daily-rated employees appointed on or before 1-7-1984 was framed and accepted. The economic consequences of its direction were taken note of by this Court in the following words: (SCC pp. 408-09, para 24)

"24. We are alive to the position that the scheme which we have finalised is not the ideal one but as we have already stated, it is the obligation of the court to individualise justice to suit a given situation in a set of facts that are placed before it. Under the scheme of the Constitution the purse remains in the hands of the executive. The legislature of the State controls the Consolidated Fund out of which the expenditure to be incurred, in giving effect to the scheme, will have to be met. The flow into the Consolidated Fund depends upon the policy of taxation depending perhaps on the capacity of the payer. Therefore, unduly burdening the State for implementing the constitutional obligation forthwith would create problems which the State may not be able to stand. We have, therefore, made our directions with judicious restraint with the hope and trust that both parties would appreciate and understand the situation. The instrumentality of the State must realize that it is charged with a big trust. The money that flows into the Consolidated Fund and constitutes the resources of the State

comes from the people and the welfare expenditure that is meted out goes from the same Fund back to the people. May be that in every situation the same taxpayer is not the beneficiary. That is an incident of taxation and a necessary concomitant of living within a welfare society."

7. But the question really is not of regularization. The more important factor is that the committee should hear the view of the parties and formulate a scheme relating to the amount to be paid to the workman without them being regularized. It shall also examine whether there is any necessity for parity of the wages, taking into account the norms relating to the method of requirement, the seasonal nature of the employment, if any.

8. The committee shall consist of Smt. M.H. Pandit, Joint Secretary, Finance Department, Mantralaya, Mumbai, as a representative for the State Government and Shri Udhav, Joint Secretary of the Krishi Vidyapeeth Kamgar Karamchhari Union and the University shall nominate two persons who have expertise in financial matters. The committee in essence would be an equivalence committee. The report shall be given to the State Government within a period of four months from date of constitution of the committee.

9. The State Government then shall take necessary action on the basis of the recommendation, after obtaining the view of the University and after giving all concerned parties an opportunity of stating their views. The order of the High Court shall not be given effect to in view of the directions as contained above.

10. The appeals are allowed. There will be no order as to costs.