

ITEM NO.37                      Court 6 (Video Conferencing)                      SECTION XIV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

**SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 41923/2019**

(Arising out of impugned final judgment and order dated 18-07-2018 in WP(C) No. 438/2003 23-08-2019 in REVP No. 243/2019 passed by the High Court Of Delhi At New Delhi)

**UNION OF INDIA**

**Petitioner(s)**

**VERSUS**

**DINESH KUMAR & ORS.**

**Respondent(s)**

**IA No. 193997/2019 - CONDONATION OF DELAY IN FILING**

**IA No. 193999/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT**

**IA No. 11687/2021 - STAY APPLICATION)**

**WITH**

**MA 2260/2020 IN DIARY NO.6589/2019 (XIV)**

**(FOR CLARIFICATION/DIRECTION ON IA 21812/2020**

**Date : 31-08-2021 These petitions were called on for hearing today.**

**CORAM :**

**HON'BLE MR. JUSTICE SANJAY KISHAN KAUL**

**HON'BLE MR. JUSTICE HRISHIKESH ROY**

**HON'BLE MR. JUSTICE C.T. RAVIKUMAR**

**For Petitioner(s)**      Mr. Madhvi Divan, Ld. ASG  
                                 Ms. Rekha Pandey, Adv.  
                                 Ms. Meenakshi Grover, Adv.  
                                 Ms. Swarupama Chaturvedi, Adv.  
                                 Mr. Raj Bahadur Yadav, AOR

**For Respondent(s)**      Mr. Vivek Sibal, Sr. Adv.  
                                 Mr. Rahul Sharma, Adv.  
                                 Mr. P. N. Puri, AOR

**UPON hearing the counsel the Court made the following  
O R D E R**

**MA 2260/2020 IN DIARY NO.6589/2019**

**Issue notice.**

**Notice is accepted by learned counsel for the respondent.**

**Learned counsel for the applicant seeks to rely on the**

judgment of this Court in *Sudhakar Baburao Nangunure v. Noreshwar Raghunathrao Shende & Ors.*- (2020) 11 SCC 399 while learned counsel for the respondent submits that it was in the given circumstances of the case where the petitioner therein had been permitted to file a review application predicated on a submission that a particular aspect had not been dealt with by the High Court. It is thus, his submission that the said judgment is in the given factual scenario of the case.

If we peruse the order dated 11.03.2019, we notice that learned Additional Solicitor General appearing for the petitioner submitted that the rationale of the High Court's order is that the respondents herein are similarly situated to the persons mentioned in para 11 of the judgment of this Court in *Union of India & Ors. v. Mohan Pal & Ors.*- (2002) 4 SCC 573 which is not factually correct. It was in these circumstances that the petition was permitted to be withdrawn with liberty to file a review application. No specific liberty was granted to assail the substantive order in case of an adverse verdict in the review petition. The review petition has been dismissed on the ground that no ground for a review was made out.

The present application has been filed on the ground of liberty to approach this Court was granted in the case of *Sudhakar Baburao Nangunure* (supra).

On consideration of the matter, we are of the view that the applicant should be permitted to file an SLP but only on the issue which was arisen for seeking withdrawal and filing a fresh Special Leave Petition i.e. that the present respondents

are not similarly situated as the cases mentioned in para 11 of the judgment in *Union of India & Ors. v. Mohan Pal & Ors.* (supra).

The liberty as aforesaid is thus, granted and the application stands allowed.

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 41923/2019

Delay condoned.

On hearing learned Additional Solicitor General what emerges is that the requirement of a scheme for grant of temporary status to casual labourers was that they should be in employment on the date of issue of the OM dated 10.09.1993 as per Clause 4(1) of the Scheme. Undisputedly, the respondents before us joined in 1995 and 1996 though they continued to work for a period of almost two decades. The submission of learned Additional Solicitor General is that no direction should be issued to absorb them under the Scheme.

We do find that there is some substance in what the learned Additional Solicitor General submits but in the factual scenario of the present case and looking to the time period of their employment, we are inclined to accept the direction in the impugned order and give our imprimatur to the same under Article 142 of the Constitution of India though not upholding the rationale of there being similarly situated as in the case of respondents in *Union of India v. Mohan Pal* (supra).

The Special Leave Petition is accordingly dismissed in

the aforesaid terms.

Pending applications stand disposed of.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR-cum-PS

(POONAM VAID)  
COURT MASTER (NSH)