

**Pratap Singh and ors. Vs. State of Rajasthan and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/762729](http://sooperkanoon.com/762729)

**Court :** Rajasthan

**Decided On :** Sep-01-1999

**Reported in :** (2000)IIILLJ502Raj

**Judge :** Shivraj V. Patil, C.J. and; Bhagwati Prasad, J.

**Acts :** [Constitution of India](#) - Article 226; Industrial Disputes Act

**Appeal No. :** C.S.A. No. 972/1999

**Appellant :** Pratap Singh and ors.

**Respondent :** State of Rajasthan and ors.

**Disposition :** Appeal dismissed

**Judgement :**

ORDER

1. Heard the learned counsel for the appellants.

2. The learned single Judge dismissed the S.B. Civil Writtion No. 17/1997 filed by the appellants on the ground that the disputed questions of fact arise for consideration. In the view he took, the learned Judge stated that the appellants may approach the Government to make reference under Section 10 of the Industrial Disputes Act, 1947 preferably within a period of three months, without resorting to the proceedings of conciliation. This order was passed in the presence

of the respondent State Government being one of the respondents.

3. The learned counsel for the appellants strongly contended that in the light of the decision of the Apex Court in the case of Bhagwan Dass v. State of Haryana AIR 1987 SC 2049 : 1987(4) SCC 634 single Judge ought to have granted the relief sought for by the appellants in the writ petition. According to the learned counsel, disputed questions of facts do not arise as the case is covered by the same Central Scheme.

4. Looking to the facts stated in the decision of the Apex Court aforementioned, we find that the decision of the Apex Court was rendered on the facts established on the basis of evidence placed in that case, may be under same scheme, the appellants were appointed but with regard to nature of duties, working hours and the functions should be performed by the appellants, are to be essentially examined before arriving at a conclusion whether the appellants should be treated as full time employees or part time employees on these questions, the respondents in the reply have specifically denied that appellants were full time employees; they also indicated that appointment of the appellants was on part time basis and their working was for 2-3 hours per day. This being the position, we are of the view that disputed questions of facts do arise for consideration. In this background, the learned single Judge was right in giving liberty to the appellants to approach the State Government for making reference of the dispute under Section 10 of the Act of 1947. Thus, we find no good ground to admit the appeal. Accordingly, it is rejected at the stage of admission.

5. At this stage, the learned counsel for the appellants submitted that case of the appellants may not come within the purview of the Industrial Disputes Act, 1947 so as to call them workmen. He further submitted that in the event the appellants approach the State Government for referring the dispute, the respondents should not resist the same on the ground that the appellants are not workmen. In our opinion, it is needless to state so, as the order of the learned single Judge was passed in the presence of the respondents including the State Government with a direction to make reference. The respondents are not in appeal before us and they are bound by the order.

