
(2002) 07 AHC CK 0034
In the Allahabad High Court
Case No : C.M.W.P. No. 13795 of 1991

Anil Kumar Yadav

APPELLANT

Vs

Nagar Palika and Another

RESPONDENT

Date of Decision : 16-07-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 4 AWC 3144

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : K.K. Misra, A.P. Tiwari and S.D. Pandey, for the Appellant; Prem Chandra, for the Respondent

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—This petition was heard and dismissed by me on 16.7,2002 for the reasons to be recorded later on. Now here are the reasons for dismissing the aforesaid writ petition.

2. The petitioner by means of this writ petition under Article 226 of the Constitution of India has prayed for the relief that the order dated 23rd August, 1990, passed by the respondent No. 2, Executive Officer. Nagar Pallka, Azamgarh be quashed with a further prayer that a writ of mandamus be issued directing the respondents to treat the petitioner in regular service with all benefits ; and that the petitioner be paid regular pay scale as is being paid to other regularly appointed employees.

3. The petitioner's case is that he was appointed in the Octroi Department on daily wages and has worked with effect from 1.10.1989 to 31.7.1990 with artificial breaks. The petitioner has neither annexed any order of appointment nor it has been stated that the petitioner has worked for how many days. The impugned order dated 23rd August, 1990, is the order passed by the Executive Officer, Nagar Palika, Azamgarh, whereby it has been stated that because of the

fact of the abolition of the Octroi Department, all such employees who were working on Tahbazari/Licence Department on daily wages, their services were terminated and in their place, regular employees working in the Octroi Department were absorbed. The petitioner's contention is that this has been done in pursuance to the resolution of the Nagar Palika, Azamgarh, but no such resolution has been annexed. The petitioner who, admittedly, is a daily wager employee, in my opinion, has failed to make out any case either for regularisation or for quashing of the order dated 23rd August, 1990.

4. Learned counsel for the petitioner tried- to make out a case that the action of the Nagar Palika is discriminatory inasmuch as they have retained some of the employees as is clear from the impugned order itself but have arbitrarily picked up the petitioner by terminating his services.

5. The fact that the petitioner was appointed on daily wages has not been denied. The fact that the Octroi Department has been abolished, all the employees working in the Octroi either regular or daily wager has thus become surplus, is also not denied. It has not been stated by the petitioner nor alleged that any other daily wager has been retained, whereas the petitioner's services have been terminated.

6. In this view of the matter, in my opinion, the petitioner cannot complain of discrimination as is submitted by the learned counsel for the petitioner. Learned counsel for the petitioner has further not been able to point out any discrepancy in the impugned order, except that he purports to adjust only regular employees of the Octroi Department and termination of services of all daily wagers even in the department of the licence.

7. In this view of the matter, in my opinion, the petitioner has failed to make out any case. The writ petition is, therefore, devoid of merit and is liable to be dismissed,

8. In view of what has been stated above, the writ petition is dismissed. The interim order, if any, stands vacated. There is no order as to costs.