
(2014) 09 RAJ CK 0109
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2047/2011

Anuj Kumar

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 24-09-2014

Acts Referred:

Citation : (2014) 09 RAJ CK 0109

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Ramrakh Vyas, Advocate for the Appellant; N.K. Mehta, Addl. Govt. Counsel (PHED), Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Dr. Vineet Kothari, J.—The petitioner, who was working on Job work basis in the respondent Public Health and Engineering Department (PHED, for short) for typing work and was initially given such work contract vide Annex. 3 dated 17.11.1997 by the office of Executive Engineer, PHED, Churu, giving him the job work of typing @ Rs. 3/- per page and Rs. 1.5/- per carbon copy for the typing work, but the petitioner has claimed in the writ petition that he be declared semi-permanent and the respondents be directed to give him the regular pay scale from the period when he had completed two years of service along with the arrears. The petitioner has sought following reliefs:

"It is, therefore, prayed that this writ petition may kindly be allowed and non-petitioners may kindly be directed to give petitioner semi permanent status and give him regular pay scale from the period when he had completed two years of service along with arrears to be paid.

Any other appropriate writ or order which is in favour of petitioner may kindly be granted."

2. The petitioner also produced the copy of the order (Annex. 4) whereby he was paid a sum of Rs. 3924/- for such job work done by him under Bill No. 5 dated

05.10.2005. Mr. Ramrakh Vyas, learned counsel appearing for the petitioner relied upon the office order (Annex. 5) dated 13.11.2009 by which amongst other employees, the petitioner's name is also shown as "Anuj Kumar", Computer Operator in the office of Executive Engineer, PHED, Churu, and he has also produced a Certificate issued by the Executive Engineer to the effect that his work as Computer Operator is satisfactory.

3. Learned counsel for the petitioner also relied upon the Division Bench judgment of this Court in the case of Smt. Manju Sharma Vs. State of Rajasthan & Ors. (DBSAW No. 326/2002, decided on 14.12.2005 and he submits that the facts of the present case are akin to the fact of that of petitioner, Smt. Manju Sharma and, therefore, the same relief deserves to be given to the petitioner.

4. On the other hand, Mr. N.K. Mehta, learned Addl. Govt. Counsel (PHED) opposed these submissions and urged that there is no regular post of Computer Operator available in the respondent Department and the petitioner was assigned the work on job basis to do certain typing works and later on he was asked to do the same work as Computer Operator, though on job basis in the respondent Department, and therefore, there is no question of giving him the status of semi permanent employee nor his services could be regularized, as he was working only on job basis.

5. The facts given in para 2 of the judgment relied upon by the learned counsel for the petitioner in the case of Smt. Manju Sharma (supra), is quoted herein below for ready reference:-

"2. Contextual facts depict that the appellant, being Post Graduate in Arts and Diploma holder in Computer Programming, was initially appointed on job work basis against a vacant post of Computer Operator on a fix salary Rs. 1200/- per month, thereafter fix salary of Rs. 2000/- per month was granted to her. The prayer of the appellant in the writ petition was that since she had continuously worked from 1994 to December 1997 she was entitled to semi permanent status as was granted to similarly situated employee viz. Rajesh Singhal. The respondents in their reply however averred that Rajesh Singhal, Alok Mittal and Vinod Singh were engaged on daily wage basis, while the appellant was appointed on contract basis, therefore, the case of the appellant was distinguishable with that of Rajesh Singhal, Alok Mittal and Vinod Singh. Agreeing with the reply of respondents learned Single Judge dismissed the writ petition of the appellant."

6. A bare perusal of the said quoted portion of the judgment would show that the facts of case of Smt. Manju Sharma, appear to be different and the said petitioner/appellant, Smt. Manju Sharma, was appointed as Computer Operator on fixed salary of Rs. 1200/- per month, whereas the present petitioner was asked to do the typing work on job basis vide Annex. 3 dated 17.11.1997 at given rates per age, and later vide the order (Annex. 4) under Bill No. 5 dated 05.10.2005, the petitioner was paid a sum of Rs. 3924/-. So far as the present

case is concerned, the petitioner was not a regularly selected and appointed employee and he was not appointed against any vacant post by the respondent-Department and he was doing the typing work on job basis. Thus, there is no foundation on the basis of which the claimed relief can be given to the petitioner.

7. Learned counsel for the petitioner, therefore, submitted that the petitioner's representation may be allowed to be decided by the respondent, Chief Engineer, PHED, Jaipur, who may consider the representation of the petitioner for giving him semi permanent status or absorption in the said Department against a vacant post, if any.

8. In view of the aforesaid statement, the present writ petition is disposed of with liberty and direction to the petitioner to move suitable representation to the respondent No. 2, Chief Engineer (Administration), PHED, Jaipur, within a period of two weeks from today and the said authority is expected to decide the representation of the petitioner in accordance with law preferably after giving an opportunity of hearing to the petitioner, within a period of six months from today. No costs. A copy of this order be sent to the concerned parties forthwith.