
(2014) 05 MP CK 0228
In the Madhya Pradesh High Court
Case No : W.P. No. 7099 of 2014

Besahan Prasad

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 07-05-2014

Acts Referred:

Citation : (2014) 05 MP CK 0228

Hon'ble Judges : Sanjay Yadav, J

Bench : Single Bench

Advocate : V.P. Kushwaha, learned counsel, Advocate for the Appellant; Sudesh Verma, learned Government Advocate, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Sanjay Yadav, J.—Heard.

2. Engaged on piece rate as a Section Writer vide order dated 24.5.1988, 9.12.1999 and 8.6.2004 respectively and having worked for a considerable years, petitioners filed this petition seeking direction to the respondents to regularize them in service on the post of Lower Division Clerk.

3. On being called upon to establish their right to regularization in view of the fact that no recruitment procedure was adhered to while engaging the petitioners, nor the engagement was against any vacant post, learned counsel for the petitioners instead of pursuing the petition seeks direction to the respondents to consider their case in the light of decision in State of M.P. and others v. Jan Mohd. Khan: W.A. No. 1234/2010 and batch of writ appeals decided on 15.12.2010.

4. In Jan Mohammad Khan (supra) it has been held:

At this stage, it is relevant to mention that the order passed in Rambahadur Sharma's case by the Tribunal, which has been upheld by the Division Bench of this Court, was passed prior to the decision of the Supreme Court in Secretary,

State of Karnataka and Others Vs. Umadevi and Others, , wherein the Supreme Court has held that an irregular appointment can be regularised but not an illegal appointment. The question whether the respondents' appointments are illegal or irregular, requires adjudication of facts. We, therefore, deem it appropriate to modify the order passed by the learned Single Judge and to direct the appellants herein to consider the case of the respondents for appointment on the post of Lower Division Clerk on regular basis in accordance with law. It is further directed that in case respondents are found suitable for regularisation and the appointments of respondents are found not to be illegal on the post of Lower Division Clerk, preference shall be given to them for appointment on regular basis, subject to availability of the vacancy. Needless to state that the appellants shall afford an opportunity of hearing to the employees before taking the final decision.

5. In view whereof, without advertng on merit, petition is disposed of with direction to respondents to consider the case of petitioners as per direction in Jan Mohammad Khan (supra) and pass the reasoned order within three months.

6. It is reiterated that this Court has not expressed any opinion on merit.

7. The petition is disposed of finally in above terms. No costs.