
(2006) 08 P&H CK 0151
In the Punjab And Haryana At Chandigarh

Devdutt	Vs	APPELLANT
State of Haryana and Others		RESPONDENT

Date of Decision : 25-08-2006

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2006) 08 P&H CK 0151

Hon'ble Judges : M.M.S. Bedi, J;M.M. Kumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—This petition filed under Article 226 of the Constitution of India prays for quashing order dated 7.3.2005 (P-4), whereby the claim of the petitioner for regularization of his services as Driver in the respondent Municipal Corporation, Faridabad, has been rejected. A further prayer has been made for directing the respondents to regularize the services of the petitioner as per the policy of regularization, dated 1.10.2003 (P-1) framed by the Government of Haryana.

2. Few facts may first be noticed. The petitioner has been continuously working in the Municipal Corporation, Faridabad - respondent No. 3 as driver on daily wage basis since 4.10.1994. It is claimed that as per the regularization policy framed by the Government of Haryana, dated 1.10.2003 (P-1), which is also applicable to the respondent No. 3 Corporation, any daily rated employee who has completed 3 years of service on 30.9.2003, is entitled for the benefit of regularization. It has further been averred that the petitioner fulfills all requirements of the aforementioned policy, therefore, his services are liable to be regularized. The petitioner had served a legal notice dated 27.10.2004 (P-2) and thereafter approached this Court by way of C.W.P. No. 106 of 2005, which was disposed of vide order dated 6.1.2005 by a Division Bench of this Court directing the respondents to take a decision on the legal notice by passing a speaking order within a period of two months of the receipt of a certified copy of the order

(P-3). As a result thereof, the competent authority i.e. the Commissioner has passed the impugned order dated 7.3.2005 (P-4), declining the claim of the petitioner for regularisation of his services on the ground that he does not fulfill the required qualification for the post of driver i.e. matric pass and he cannot be regularized in view of Government instructions of 2003.

3. Notice of motion in the instant case was issued on 3.10.2005 and written statement on behalf of respondent No. 3 has been filed mainly reiterating the same stand as has been taken in the impugned order dated 7.3.2005 (P-4) for rejecting the claim of the petitioner.

4. Having heard the learned Counsel and perusing the record, we are of the considered view that no mandamus can now be issued for regularization of the services of the petitioner because of the view taken by Hon"ble the Supreme Court in a Constitution Bench judgment in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, . Similar matter has come up before this Court in Rajinder Kumar v. State of Haryana and Ors. C.W.P. No. 7563 of 2005, decided on 25.4.2006 and we have dismissed the same.

5. Therefore, the writ petition fails and the same is dismissed.