
(2016) 02 MP CK 0041
In the Madhya Pradesh High Court
Case No : W.P. No. 1195 of 2016

Dhannalal Charan

APPELLANT

Vs

Water Resource Department

RESPONDENT

Date of Decision : 12-02-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 1 MPWN 200

Hon'ble Judges : Prakash Shrivastava, J.

Bench : Single Bench

Advocate : S.S. Pandey, Advocate, for the Appellant; Aniket Naik, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Prakash Shrivastava, J.—The petitioner before this Court has filed this present petition claiming regularisation in service.

2. The contention of the petitioners is that they are serving as daily wager on the post of Chowkidar for last more than 20 years and have submitted various representation to the authorities time to time claiming regularisation in service.

3. Learned counsel for the petitioners has further argued before this Court that pursuant to the judgment delivered in the case of State of Karnataka v. Uma Devi reported in (2006) (4) SCC 1, the petitioners are entitled for regularisation in service.

4. Learned Government Advocate has not disputed the factual position in respect of the judgments delivered in the identical case.

5. This Court in Writ Petition No.898/2011 (Narayan Yadav v. State of M.P and others) in paragraph Nos. 6 to 8 has held as under:-

"6. In the present case, the petitioners are serving the Rural Engineer service as daily wager since 1986. Learned counsel has placed on record an order of the

State Government dated (sic)/02/2008 No.811/22/V-3/Gramin Sewa/08 and the same reveals that as many as 369 posts have been sanctioned by the State Government. The aforesaid facts has not been denied by the respondents in the return, meaning thereby the vacancies have been sanctioned by the State Government and they are in existence in the department. Respondent State has issued executive instructions pursuant to the judgment delivered by the apex court in the State of Karnataka v. Uma Devi, reported in 2006 (4) SCC 1, does provide for consideration of cases of employees, who have put in 10 years of service for regularisation. Petitioner is continuing for last 24 years and as the petitioner has established before this Court that vacancies are available, the case of the petitioner cannot be turned down by the respondents only on the ground that at the time of appointment of the petitioner, petitioner was not appointed against the vacant post.

7. Resultantly, the writ petition stands allowed. Respondents are directed to consider the case of the petitioner for regularisation as well as for grant of additional emoluments as per the executive instructions dated 16.05.2007 and dated 08.02.2008 and also keeping in view the directions as contained in the judgment delivered by the apex court in the case of State of Karnataka v. Uma Devi, reported in 2006(4) SCC 1. The aforesaid exercise of considering the case of the petitioner and passing necessary orders be concluded within a period of six months from the date of receipt of certified copy of this order.

8. In Writ Petition Nos. 903/2011 and 904/2011, the petitioners are working on the post of Khasi and as post of Khasi Class-IV has been sanctioned by the State Government, their cases will also be considered, keeping in view the aforesaid direction for regularisation."

6. Keeping in view the aforesaid judgment, respondents are directed to consider the case of the petitioners for regularisation as well as for grant of additional emoluments, as per the executive instructions dated 16.05.2007 and 08.02.2008 and also keeping in view the directions as contained in the judgment delivered by the Apex Court in the case of State of Karnataka v. Uma Devi, reported in 2006 (4) SCC 1. The aforesaid exercises be concluded within a period of six months from the date of receipt of certified copy of this order.

7. With the aforesaid, writ petition stands allowed.

8. No order as to costs.

9. CC as per rules.