
(2005) 01 MP CK 0078

In the Madhya Pradesh High Court

Case No : Writ Petition No. 3371 of 1997

Dhiraj Kumar Tiwari

APPELLANT

Vs

State of M.P. and Another

RESPONDENT

Date of Decision : 28-01-2005

Acts Referred:

Citation : (2005) 2 MPHT 20

Hon'ble Judges : A.K. Mishra, J

Bench : Single Bench

Advocate : Shri R.K. Jain, for the Appellant; D. Awasthy, Dy. Govt. Advocate for the Respondent No. 1 and V.K. Shukla, for the Respondent No. 2, for the Respondent

Judgement

Arun Mishra, J.—Petitioner was appointed as Data Entry Operator by M.P. State Seed and Farm Development Corporation, Bhopal.

2. An order of appointment (A-4) in anticipation of approval for creation of post to be granted by State of M.P. was issued appointing the petitioner at the rate of Rs. 1600/- per month. Proposal (A-3) was sent on 5/6-3-93 to the State Govt., Department of Agriculture, it was proposed that one post of Asstt. Programmer and two posts of Data Entry Operator be created and post of Executive Engineer (Civil) was not necessary, it was proposed that additional burden would be Rs. 19,968/- per annum. State Govt. has rejected the prayer for creation of the post of Data Entry Operator as per order [R-2(a)], dated 24-3-98. It was proposed that some Lower Division Clerk should be trained to perform the work of Data Entry Operator and in case there is necessity of additional hand, the increase in the post of LDC be examined. Petitioner has submitted that an advertisement was issued for Computer Operator at the rate of Rs. 5,000/- per month. Petitioner is being paid a sum of Rs. 1845/- though he is rendering the duty of Data Entry Operator. Thus, the salary for the work which is being rendered by the petitioner is not being paid. Work is being taken from the petitioner on exploitative terms. Action of respondents in not regularizing his services so far is

illegal and bad in law.

3. In the return filed by respondent No. 2 it is contended that State Government has informed the answering respondent that sanction can not be granted for the post of Data Entry Operator, communication [R-2 (a)] has been sent. There is now no need of Data Entry Operator as other staff is to be trained. For appointment of Computer Operator on contract basis for six months an advertisement was published, applications were received, 68 candidates were interviewed, 3 persons were selected for the said work and 2 persons are in the waiting list, appointment orders of engagement on contractual basis of these persons have been issued. As application was moved by the petitioner before the Chief Election Officer, Corporation has kept these orders in abeyance, petitioner was also asked to appear in the said selection, but he did not appear, hence, no interference is called for in the writ petition.

4. In the rejoinder filed by the petitioner, it is submitted that his services ought to have been regularized by now, petitioner is being paid fixed salary, other persons who have been appointed later on contract basis are getting Rs. 5,000/- per month. Thus, policy adopted by the respondents is illegal and arbitrary.

5. Petitioner has continued in service for the last more than 10 years. It is clear that advertisement was issued by Corporation to take the work on contract basis at the rate of Rs. 5,000/- per month. The State has rejected the proposal for appointment/creation of post of Data Entry Operator, at the same time it has suggested that increase in number of post of LDC be examined. As petitioner has rendered the services by now for long period, petitioner's services should have been regularized by the respondents on appropriate post, if not possible as Data Entry Operator. In case as projected the work is being taken on contract basis at the higher rate of Rs. 5,000/- per month, it passes comprehension what is the hitch in creation of post. It is not proper for the respondents to take the work on contract basis when work is of perennial in nature. Thus, the respondents are directed to consider the creation of post of Data Entry Operator, in case it is not considered feasible for any reason, let petitioner's case be considered for his absorption on other equal post commensurate to his qualification within a period of six months.

5. Writ petition is disposed of with above directions.