

(2008) 11 KAR CK 0015
In the Karnataka High Court
Case No : Writ Appeal No. 24 of 2008 (S-REG)

H S Rajashekara

APPELLANT

Vs

State Bank of Mysore

RESPONDENT

Date of Decision : 04-11-2008

Acts Referred:

Citation : (2008) 11 KAR CK 0015

Hon'ble Judges : V.G. Sabhahit, J

Bench : Single Bench

Advocate : P. Mahesha, for the Appellant; K. Subha Ananthi, for M/s. Kasturi Associates for R1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

P.D. Dinakaran, C.J.—The unsuccessful writ petitioner in Writ petition No. 22324/2004 is the appellant herein challenging the order of the learned Single Judge rejecting his request for regularisation of his service in the respondent-Bank.

2. The petitioner was appointed as a Peon temporarily from January 1985 to February 1985 initially for a period of 20 days, again he worked from 8.7.1994 to 31.5.1995 for 207 days, again from 1.5.1995 to 30.8.1995 for 85 days and again from 2.9.1995 to 30.10.1995 for 59 days, further from 1.2.1996 to 9.4.1996 for 54 days. Based on the above service details, the petitioner represented to the respondent-Bank to absorb him in service. As no orders were passed on that, he approached this Court in Writ Petition No. 45932/1999 and this Court, by order dated 14.12.2004, directed the respondent-Bank to consider the representation of the petitioner for regularisation of his service in accordance with law. Pursuant to the said direction of this Court dated 14.12.2004, the General Manager of the State Bank of Mysore by impugned proceedings dated 24.8.2005 rejected the request of the petitioner and refused to absorb him in regular service.

2.1 According to the respondent-Bank, even as per the details referred to above,

he had not worked for 240 days in a calendar year and that apart, the qualification for sub-staff cadre is pass in VIII Standard, whereas, the petitioner has suppressed that he had passed SSLC and that the Bank has already taken a policy decision to reduce the work force and as such, the proceedings dated 24.8.2005 came to be passed.

2.2 Aggrieved by the said proceedings dated 24.8.2005, the petitioner filed the present writ petition No. 22324/2005.

3. The learned Single Judge by order dated 13.11.2007 having found that even as per the details furnished by the petitioner he had not worked for more than 240 days in a calendar year and the fact that the Bank had already taken a policy decision to reduce the work force, held that there is no reason to interfere with the impugned proceedings. Hence the present appeal.

4. Heard.

5.1 It is not in dispute that the petitioner was appointed as Peon only on temporary basis. It is settled law that inasmuch as, the Constitutional Bench of the Apex Court in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, has held that when the Court is approached for relief by way of a writ, the Court has necessarily to ask itself whether the person before it had any legal right to be enforced. It cannot be said that the temporary, contractual, casual or daily-wage employees have been able to establish a legal right to be made permanent even though they have never been appointed in terms of the relevant rules or in adherence of Articles 14 and 16 of the Constitution. It is also held that a direction to give permanent employment to all those who are being temporarily or casually employed in a public sector undertaking may cause the financial burden on such undertaking to become so heavy that the undertaking itself may collapse under its own weight.

5.2 In the instant case, the petitioner has thus, in all, not worked for more than 240 days in a calendar year, which, is also admitted by the petitioner himself. Therefore, as rightly held by the learned Single Judge, we do not find any reason to interfere with the impugned order.

Accordingly, the writ appeal is dismissed.