
(2007) 04 AHC CK 0185
In the Allahabad High Court

Harikesh Verma

APPELLANT

Vs

Zila Yuva Kalyan Evam Pradeshik Vikas Dal Adhikari, Chief
Development Officer, District Development Officer and
Director, Yuva Kalyan Evam Pradeshik Vikas Dal

RESPONDENT

Date of Decision : 18-04-2007

Acts Referred:

Constitution of India, 1950 — Article 311

Citation : (2007) 7 AWC 7758 : (2007) 114 FLR 247

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard learned Counsel for the parties.

2. This petition has been filed for a relief of direction in the nature of mandamus directing the respondents to regularise the services of petitioner and further commanding the respondents to pay the arrears of salary for which he is entitled under law and current salary may also be paid regularly.

3. The contention of petitioner is that he was appointed as Chowkidar in the establishment of the respondent No. 1--Zila Yuva Kalyan Evam Pradeshik Vikas Dal Adhikari, Basti on 1.12.1990 and has been working since then. However, by an oral order the petitioner has been asked not to perform his duty, which according to the petitioner is not permissible under law.

4. Vide order dated 10.12.1999, direction was made to issue notice to the respondents, who were represented by the learned standing counsel. It was also directed by the aforesaid order that if the petitioner was working on the post of Chowkidar on 14.10.1999, he shall be permitted to continue to work on the said post unless there is an order in writing terminating his services.

5. The Standing Counsel vehemently urged that the petitioner was working on honorarium and was not government servant and he was not paid salary. It was

further urged that the services of petitioner were wholly temporary and his services have been rightly terminated as such he has no right to continue in service.

6. The petitioner is continuing in service under interim order of this Court, which does not confer upon him any right to continue in service on his own independent legal and constitutional right.

7. A dispute regarding legality or validity of the temporary appointment and its cessation is to be decided by the competent court by proper adjudication.

8. Admittedly, the services of petitioner were temporary. He is not a government servant as he is working on honorarium and does not enjoy the protective umbrella of Article 311 of the Constitution. For the reasons given above, the petition is dismissed. The petitioner shall raise a natural dispute within two months from today before the appropriate forum which may be referred to the Labour Court within a period of one month thereafter in accordance with Rule 12 of the U.P. Industrial Dispute Rules, 1957 framed under the Act.