

(1991) 11 AHC CK 0022

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 18752 of 1986

Khem Raj

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 25-11-1991

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1992) 1 AWC 416

Hon'ble Judges : R.A. Sharma, J

Bench : Single Bench

Advocate : B.G. Yadav, for the Appellant;

Final Decision : Dismissed

Judgement

R.A. Sharma, J.—Petitioner was appointed as Kamdar in 1975 in Food and Civil Supply Department of Government of U.P. for a season Such appointments of the Petitioner and Ors. on seasonal basis continued to be made from year to year. Season for which these appointments used to be made was generally from April to July. After the season was over the services of the Petitioner and other seasonal employees used to be terminated. Last appointment on seasonal basis of the Petitioner was made in 1986 and thereafter he was never appointed He has, as such, filed this writ petition for a writ of mandamus commanding the Respondents not to terminate his services as Kamdar and for quashing the order dated 17-4-1986. The State has filed a counter affidavit and the Petitioner has filed a rejoinder affidavit in reply thereto. I have heard the learned Counsel for the Petitioner and the learned standing counsel.

2. It is not disputed and in fact it is clear from the appointment orders of the Petitioner that the Petitioner used to be appointed every year as Kamdar for the season only which used to be generally from April to July. In the appointment letters it used to be mentioned that he is appointed purely on temporary basis and his services can be terminated at any time before 31st July.

3. A person working on seasonal basis does not acquire any right as he does not hold the post and his appointment being purely temporary is liable to be terminated at any time. In fact by virtue of the appointment letter the Petitioner's appointment used to come to an end automatically after expiry of the season, and the question of termination of service in such cases does not arise. Although it is desirable that such persons who have worked on seasonal basis in the past, may be permitted to work in later seasons also, but that does not give any right to such persons to claim the appointment in future as a matter of right.

4. learned Counsel for the Petitioner has argued that some Kamdars who used to be appointed on seasonal basis and who are juniors to him, have been made permanent in the department, but the same treatment has not been given to the Petitioner and on this basis it is argued that the Respondents are guilty of discrimination which is violative of Articles 14 and 16 of the Constitution of India. These allegations made by the Petitioner in the writ petition have been denied in the counter-affidavit, and it has specifically been stated that no seasonal employee has been made permanent.

5. Writ petition lacks merit and is liable to be dismissed. As the Petitioner has worked on seasonal basis for about 8/9 years in the aforesaid department, it is desirable that if and when the necessity for appointment of Kamdar on seasonal basis arises in future the Petitioner's case may also be considered for appointment sympathetically in view of his past experience in the same department on the aforesaid post and in this connection it will be open to the Petitioner to make fresh application at the time when seasonal appointments are to be made.

6. With the aforesaid observations the writ petition is dismissed. There shall be no order as to costs.