

(2001) 07 AHC CK 0182

In the Allahabad High Court

Case No : Writ Petition No. 4335 of 1990 and W.P. No. 3183 of 1990

Khulwant Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 25-07-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 92 FLR 1175 : (2002) 4 LLJ 161

Hon'ble Judges : R.H. Zaidi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.H. Zaidi, J.—In both these petitions, common questions of law and fact are involved, they were, therefore, heard together and are being disposed of by this common judgment.

2. Heard learned counsel for the petitioners, learned counsel appearing for the contesting respondents and also perused the record.

3. By means of these petitions, filed under Article 226 of the Constitution of India, petitioners pray for issuance of a writ, order or direction in the nature of mandamus commanding the opposite parties to treat the petitioners in continuous service and to pay the arrears of salary to the petitioners.

4. It appears that the petitioners were employed as daily wagers in the year 1979. They worked from time to time as and when their services were required in the Irrigation Department as it is evident from the certificate, contained in Annexure 1 to the writ petition. Ultimately, petitioners were not permitted to work therefore, they approached this Court and filed the above noted petitions.

5. Learned counsel for the petitioners submitted that the petitioners have been working since 1979 as daily wagers therefore, they shall be deemed to have been regularized. Their services could not be terminated except in accordance

with law.

6. On the other hand, learned counsel appearing for the contesting respondents submitted that there was nothing on the record to show that the petitioners have worked 240 days continuously or their services were liable to be regularized, therefore, the writ petition as framed and filed is legally not maintainable. It was also urged that in case, the petitioners felt aggrieved, they should have approached the Tribunal constituted under the U.P. Industrial Disputes Act, for ventilation of their grievances. No claim petition is alleged to have been filed by the petitioners. They have approached this Court straightway and filed the above petitions.

7. I have considered the submissions made by the learned counsel for the parties.

8. On the record, there is no documentary evidence to support the version of the petitioners that they have worked continuously for 240 days or more. Learned counsel for petitioners placed reliance upon the Annexure-1 to the writ petition, which reads as follows

(Vernacular matter omitted)

9. The correctness and the genuineness of the aforesaid annexure has not been admitted by the other side. From a reading of the aforesaid annexure, it is apparent that according to the need, the service was taken from the petitioners by employing them on daily wage basis. They were all muster roll employees, therefore, petitioners cannot take any advantage of the said certificate. Learned counsel for the petitioners failed to make out a case for interference by this Court under Article 226 of the Constitution of India. I do not find any illegality or infirmity in the stand taken by the contesting respondents.

10. These petitions have got no merit. The same fails and are hereby dismissed. No orders as to costs.