

(2009) 04 AHC CK 0154
In the Allahabad High Court

Kiran Kumar Srivastava and another	Vs	APPELLANT
State of U.P.and others		RESPONDENT

Date of Decision : 09-04-2009

Acts Referred:

Citation : (2009) 04 AHC CK 0154

Hon'ble Judges : Rajiv Sharma, J

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.

Heard Smt. Yogita Chandra, learned counsel for the petitioners and Sri Sanjay Sarin, learned Standing Counsel.

It has been stated by the counsel for the petitioners that the petitioner No.2 was appointed on 1.1.1982 and worked upto 1989 on daily wage basis, but in the year 1989 the respondents terminated the services of the petitioner no.2. Being aggrieved, he challenged the termination order by filing a writ petition No. 4580 (SS) of 1989.

Petitioners" counsel further submitted that the petitioner No.1 was appointed on daily wage basis on 1.1.1982 and he was not allowed to work on 12.7.1989. Feeling aggrieved by the action of the opposite parties, he too has filed writ petition No.6582 of 1989 and this Court allowed both the writ petitions with a direction to the opposite parties to reinstate and pay salary and consider his case for regularization. In compliance of this Court's Order, the respondents reinstated the petitioners and again terminated them on 30.4.1992 on the ground of nonavailability of work in the department.

Refuting the submissions made by the learned counsel for the petitioners, learned Standing Counsel has submitted that the petitioners were engaged on daily wage basis and they were rightly terminated from service as they have no legal right.

In rebuttal, counsel for the petitioners has vehemently argued that the State Government has issued a Government Order dated 7.2.1997 which postulates that daily rated employees working from 1985 be absorbed in workcharge establishment and as the petitioners were appointed prior to 1985, they should have been absorbed in the workcharge establishment.

Admittedly, the petitioners were terminated from service initially in the year 1992 and again by the impugned order. Further, the State Government has issued the Government Order only on 7.2.1997. It is not in dispute that the Government Order itself provides that the daily rated employees working from 1985 be absorbed. As the petitioners are not in employment in the year 1997, the petitioners cannot be absorbed.

In view of above, the writ petition is dismissed.