
(2013) 08 MP CK 0315
In the Madhya Pradesh High Court
Case No : Writ Petition No. 19169 of 2012

Kumbhaj Singh

APPELLANT

Vs

State of MP and Others

RESPONDENT

Date of Decision : 14-08-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2013) 08 MP CK 0315

Hon'ble Judges : R.S. Jha, J

Bench : Single Bench

Advocate : A.K. Singh, for the Appellant;

Final Decision : Disposed Off

Judgement

R.S. Jha, J.—The petitioner has filed this petition praying for a relief of regularization in the establishment of the respondents alleging that the petitioner is working as a daily wage employee in the contingency paid department of the respondents prior to 31.12.1988. It is submitted by the learned counsel for the petitioner that the petitioner had filed W.P. No. 16502/06(S) and the same was disposed of by this court on 18.12.2008 directing the respondents to consider the case of the petitioner for regularization by taking into consideration the fact as to whether any person junior to the petitioner had been regularized. The learned counsel for the petitioner submits that the respondents be directed to regularize the petitioner.

2. Having heard the learned counsel for the petitioner and from a perusal of the record, it is observed that the respondents/authorities by communication dated 19.02.2009 have considered the case of the petitioner in respect of both the aforesaid aspects and have stated that no person junior to the petitioner has been regularized and as and when such contingency arises, the case of the petitioner shall be considered.

3. Having heard the learned counsel for the petitioner and in view of the decision

of the Supreme Court in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, that the aforesaid one time exercise for considering cases for regularization had to be undertaken by the authority and that the Supreme Court has further gone on to hold that the system of making appointment through regularization without following the procedure prescribed by law, is unconstitutional and therefore impermissible. In the aforesaid case the Supreme Court has also held that appointment by regularization dehors the rules, is not permissible as it violates Articles 14 and 16 of the Constitution of India therefore, the relief prayed for by the petitioner cannot be granted and accordingly is hereby rejected.

4. In the subsequent decision of the Supreme Court in the case of Official Liquidator Vs. Dayanand and Others, the Supreme Court has further observed that after decision in the case of Uma Devi, relief on the basis of parity and discrimination is also not available to the persons claiming regularization.

5. However, the respondents/authorities may take into consideration their communication dated 19.02.2009 Annexure P/5 in future as and when contingency arises.

6. With the aforesaid observations, the petition filed by the petitioner stands disposed of. C.C. as per rules.