
(2002) 07 AHC CK 0089
In the Allahabad High Court
Case No : C.M.W.P. No. 6187 of 1989

Lal Chandra

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 24-07-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 4 AWC 2684 : (2002) 95 FLR 66 : (2002) 3 UPLBEC 2699

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : Rajiv Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

Anjani Kumar, J.—This petition was directed by the order dated 24th May, 2002 to be listed in the third week of July, 2002 along with listing application dated 16th March, 2002 and stay vacation application dated 28th October, 1990. Learned counsel for the parties agreed that the same time may be consumed for final disposal of the writ petition which is likely to be consumed in deciding the stay vacation application. With the consent of the learned counsel for the parties, the writ petition is being heard and disposed of finally.

2. Learned counsel for the petitioner argued that the petitioner was appointed as Class-IV employee, i.e. Sweeper-cum-Chaukidar in the office of the Employment Exchange, Mughal Sarai, Varanasi by the Regional Employment Exchange Office vide order dated 22nd January, 1987, a copy whereof is Annexure-1 to the writ petition for the period upto 31st March, 1987. It is also stipulated in the appointment letter that the services of the petitioner can be terminated even before the aforesaid period without any information. There is another order dated 30th June, 1988, a copy whereof is Annexure-2 to the petition, which says that the appointment of the petitioner, which was made upto 30th June, 1988, is now being extended upto 15th September, 1988. The other stipulations remain the same.

3. The petitioner's assertion is that after 15th September, 1988, he has not been assigned any work. Therefore, he filed two representations dated 16th September, 1988 and again on 4th October, 1988 which remained undecided. Therefore, the petitioner filed Civil Misc. Writ Petition No. 25317 of 1988 which has been decided by this Court vide judgment and order dated 15th December, 1988. In the aforesaid writ petition, this Court observed that the assertion made by the petitioner in the writ petition should have been decided by the respondents. Therefore, this Court issued a direction that the respondents should now pass final order on the representation of the petitioner within a period of one month from the date of presentation of a certified copy of this order before him (order passed in Writ Petition No. 25317 of 1988) keeping in view the fact that the petitioner had been appointed on a vacant post. If the officer decides to reject the representation, he shall record a categorical finding as to whether the post is still vacant or not, and if yes, why the services of the petitioner have been dispensed with.

4. The petitioner served a copy of this order on the respondents as would be clear from the documents annexed along with the counter-affidavit. The respondents have stated in the counter-affidavit that they have not received any representation from the petitioner as alleged by the petitioner in Civil Misc. Writ Petition No. 25317 of 1988 and in this view of the matter the question of deciding the representation does not arise.

5. The petitioner has now filed the present writ petition for the following reliefs :

"(i) to issue a writ, order or direction in the nature of mandamus commanding upon the respondent No. 2 to regularise the petitioner's services ;

(ii) to issue a writ, order or direction in the nature of mandamus commanding upon the respondent No. 2 to assign the work to the petitioner and to pay his salary accordingly and also his back wages ;

(iii) to issue any other writ, order or direction to which the petitioner may be found entitled to ;

(iv) to award the cost of this petition to the petitioner."

6. Learned counsel for the petitioner has submitted that the respondents have not decided the representation as directed by this Court and secondly, the post on which the petitioner was working is still vacant because of the interim order passed by this Court in the writ petition.

7. However, in my opinion, the petitioner has reasonably failed to demonstrate that he has any right to be appointed on the post. The letter of appointment relied upon by the petitioner says that the petitioner was appointed for a fixed period which in terms of the appointment letter automatically came to an end after the expiry of the period.

8. In this view of the matter, the petitioner has failed to make out any case for

interference by this Court in exercise of power under Article 226 of the Constitution of India.

9. The writ petition is devoid of merit and it is accordingly dismissed. The Interim order, if any, stands vacated. There is no order as to costs.