

(2009) 05 AHC CK 0561
In the Allahabad High Court

Mahendra Pratap Yadav

APPELLANT

Vs

State of U.P.and others

RESPONDENT

Date of Decision : 29-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0561

Hon'ble Judges : V.K.Shukla, J

Final Decision : Dismissed

Judgement

V.K. Shukla, J.

Present writ petition has been filed by the petitioner for following reliefs:

"(i) issue a writ, order or direction in the nature of mandamus commanding the respondents to permit the petitioner to work as Clerk in the office of Veer Bahadur Singh Purvanchal University, Jaunpur pursuant to the appointment order dated 25.01.2001 without any hindrance.

(ii) issue a writ, order or direction in the nature of mandamus commanding the respondents to pay the arrears of salary meant for the post of Clerk on which the petitioner has been working though out at in the admissible Grade with admissible interest and all consequential benefits.

(iii) issue any other writ, order or direction to which this Hon'ble Court may deem fit and proper in the circumstances of the case.

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

Brief background of the case is that petitioner claims that pursuant to order dated 25.01.2001, he was offered appointment on daily wage basis as class III employee for six months. Petitioner has contended he continued till 22 days and thereafter, he had been restrained from performing and discharging his duties; thereafter, he represented the matter but nothing was done. Thereafter, petitioner has contended that qua him proceedings are ongoing, but the same

are not being finalized. At this juncture present writ petition has been filed.

Learned Counsel for the petitioner, Sri Punit Khare, Advocate, contended with vehemence that in the present case, petitioner has been meted with arbitrary and discriminatory treatment in the hands of the respondents as he was offered appointment in the past on his land being acquired as such he was entitled to continue in service as class III employee. In this background, request has been made that the writ petition be allowed.

Countering the said submission, learned Standing counsel as well as Sri Anil Tiwari, Advocate, appearing on behalf of respondents, on the other hand, contended that the claim of the petitioner is totally misconceived and devoid of any substance, and the petitioner is not at all entitled to any of the reliefs as claimed by him.

After respective arguments have been advanced, factual position, which emerges and qua which there is no dispute, that the petitioner was offered appointment on daily wage basis for a period of six months on the ground that his land had been acquired. Said appointment was confined to only six months and the petitioner was well aware of this fact. Petitioner was daily wager and in case he was prevented from performing and discharging duty, it cannot be said that any legal right of the petitioner has been infringed, especially in the backdrop of the nature of appointment offered to the petitioner.

Full Bench of this Court in the case Ravindra Kumar Vs. District Magistrate, Agra, reported in [(2005) 1 UPLBEC 118 has already taken the view that on land being acquired, an incumbent cannot claim appointment as a matter of right, as the same would be violative of Articles 14 and 16 of the Constitution. In this background in view of the Full Bench decision, petitioner cannot have any legitimate right to claim appointment in lieu of his land being acquired. The claim of the petitioner on this score is also devoid of any substance.

In the present case petitioner was prevented from discharging duties as daily wager and he acquiesced to the said action of the respondents and for the last six years nothing was done and thereafter after six years on the ground that some proceedings are ongoing, petitioner has rushed up to this Court. The most surprising feature of the entire proceedings is that original file in relation petitioner's case is missing and Xerox copy of current proceedings has been appended before this Court, which shows the amount of access of the petitioner to the records of the University. This is serious matter wherein Xerox copy of the internal proceedings of university has been appended which is ample proof of the fact that records of university has travelled outside the campus of university with the connivance of the staff of the university. University should look into the matter and deal with the matter firmly. Looking to over all facts and circumstances of the case, no relief can be accorded to the petitioner.

Consequently, present writ petition is dismissed.