
(2003) 11 AHC CK 0164
In the Allahabad High Court
Case No : C.M.W.P. No. 4002 of 2000

Mathura Vrindavan Development Authority and Others	APPELLANT
Vs	
State Public Services Tribunal and Others	RESPONDENT

Date of Decision : 25-11-2003

Acts Referred:

Citation : (2004) 1 UPLBEC 766

Hon'ble Judges : Umeshwar Pandey, J; M. Katju, J

Bench : Division Bench

Advocate : Dilip Gupta, for the Appellant; D.P. Singh, S.C., for the Respondent

Final Decision : Allowed

Judgement

M. Katju and Umeshwar Pandey, JJ.—Heard learned counsel for the petitioners.

2. None has appeared for the respondent No. 2 although, Sri Dev Pratap Singh, advocate has filed his vakalatnama on behalf of the respondent No. 2 and his name has been shown in the cause list.

3. The facts of the case have been set out in the order dated 26.10.1999 passed by the U. P. Public Services Tribunal. It appears that the respondent No. 2 was appointed on the post of clerk-cum-typist on daily wage basis w.e.f. 12.9.1994 in the service of the petitioner, Mathura Vrindavan Development Authority, Mathura. As stated in para 3 of the writ petition, the respondent No. 2 Km. Anju Rani submitted an application dated 26.12.1995 to the Secretary/Vice Chairman of the Development Authority seeking appointment to the post of Clerk. Without any advertisement or selection and merely on the aforesaid application submitted to the petitioner, an order dated 30.12.1995 was issued by the Secretary of the petitioner (copy of this is Annexure-2 to the writ petition). A perusal of the order shows that it gives appointment to the respondent No. 2 only for three months on ad hoc basis. The order further states that the appointment is purely temporary and could be terminated at any time without any notice.

4. The aforesaid order of appointment was only for a period of three months on purely ad hoc basis and would have expired on 31.3.1996. However, the respondent No. 2 was allowed to continue for further three months periods on several occasions as stated in paras 5 and 6 to the writ petition. The last appointment of three months expired on 30.6.1998 and in the absence of any further grant of extension, the petitioner was not permitted to work from 1.7.1998. Hence, the respondent No. 2 filed a claim petition before the Tribunal, copy of which is Annexure-4 to the writ petition. Petitioner filed a reply copy of which is Annexure-5 and rejoinder-affidavit was also filed by Km. Anju Rani, copy of which is Annexure-6 to the writ petition.

5. In para 9 of the writ petition, it is mentioned that a written statement of the petitioner was filed before the Tribunal. It is stated that respondent No. 2 Km. Anju Rani had been engaged initially on daily wage basis and subsequently without any advertisement or selection she was appointed on temporary/ad hoc basis for a period of three months by means of the order dated 30.12.1995. In the said order, it was mentioned clearly that the services was purely temporary and could be terminated at any time without any reason or notice. It is further stated that there was no vacant post of clerk duly sanctioned by the Government. Hence, Km. Anju Rani has no right to continue.

6. It is well settled that a temporary appointee has no right to the post vide Kaushal Kishore v. State of U. P. 1991 (1) AWC 651 . This decision has been followed by several subsequent decisions vide Commissioner, Food and Civil Supplies, Lucknow, U.P. and Another Vs. Prakash Chandra Saxena and Another, ; Triveni Shankar Saxena Vs. State of U.P. and others, ; Madhya Pradesh Hasta Shilpa Vikas Nigam Ltd. Vs. Devendra Kumar Jain and Others, and Dr. (Mrs.) Chanchal Goyal Vs. State of Rajasthan, etc. We, therefore, fail to understand as to how the Tribunal could have allowed the petition of the respondent No. 2 since respondent No. 2 was appointed on purely temporary/ad hoc basis for three months only by order dated 30.12.1995 and the service of respondent No. 2 was extended by the Secretary again for three months at a time. In our opinion, this will not give respondent No. 2 any right to the post.

7. For the reasons given above, the writ petition is allowed and the impugned order dated 26.10.1999 passed by the Tribunal is set aside.