

(2014) 10 KAR CK 0025

In the Karnataka High Court

Case No : Writ Petition No. 49198/2014 (S-RES)

M.G. Eswara Rao

APPELLANT

Vs

Karnataka State Co-operative Agriculture and Rural
Development Bank Ltd.

RESPONDENT

Date of Decision : 21-10-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21, 24, 39(a)

Citation : (2014) 10 KAR CK 0025

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : R.L. Udaya Kumar, Advocate for the Appellant

Judgement

Ram Mohan Reddy, J.—Petitioner claims to have been engaged on daily wage basis, as a driver, with effect from 07.07.1997 by the first respondent/Karnataka State Co-operative Agriculture and Rural Development Bank Limited to discharge duties in its branch office at Mysore. It appears that during the year 1999, petitioner made a representation to the first respondent for payment of travelling allowance and dearness allowance as had been paid to other employees of the bank. It appears that on 10.07.1999, the 2nd respondent addressed a letter, Annexure-C to the first respondent recommending petitioner case to be appointed on daily wage basis. In the year 2001, the 2nd respondent is said to have deputed the petitioner to the office of the Deputy Commissioner and again on 12.02.2008 petitioner was deputed to work in the office of Taluka Health Officer. On 18.08.2009, petitioner is said to have made a representation to the 2nd respondent to pay Rs. 1,000/- per month as had been paid to the State Government employees working for more than 10 years, which was recommended by letter dated 26.08.2009 of the 2nd respondent to the first respondent followed by yet another letter dated 15.09.2012. On 07.08.2014 petitioner is said to have made a representation to the first respondent to regularize his services as a driver which when not responded to, has presented this petition for a writ of mandamus or a direction to the first respondent to

regularize his services.

2. There is no more doubt that petitioner was not appointed in a regular process of recruitment by selection to a substantive post, in accordance with recruitment rules. If that is so, petitioner is disentitled to claim regularization of service having regard to the constitution Bench decision of the Apex Court in Secretary, State of Karnataka and Others Vs. Umadevi and Others, , observing that, under Articles 14 and 16 of the Constitution of India, an employment on daily wages confers no right for permanent employment and since daily wagers form a class by themselves, are not entitled to claim parity viz. a viz. on par with those who are regularly employed on the basis of relevant rules and therefore, cannot be made permanent in employment. Regard being had to Articles 21, 16 and 39(a) of the Constitution of India with reference to right to life the Apex Court held, it does not include right to employment and therefore, temporary, contractual, casual or daily wage employees appointed de hors rule cannot claim equity, by invoking Article 24 of the Constitution of India. In addition, the Apex Court observed that a daily wager cannot claim permanent absorption as a right under Article 21 since a set of daily wagers cannot be preferred over vast majority of people waiting for an opportunity to compete for public employment.

The aforesaid observations apply on all its fours to the facts of this case. Petition devoid of merit is rejected.