

(2006) 11 RAJ CK 0021
In the Rajasthan High Court

Mukesh Kumar Panwar

APPELLANT

Vs

UCO Bank and Others

RESPONDENT

Date of Decision : 13-11-2006

Acts Referred:

Citation : (2007) 113 FLR 1027

Hon'ble Judges : Prem Shanker Asopa, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prem Shankar Asopa, J.—By this writ petition, the petitioner has prayed that by an appropriate writ, order or direction to the respondents, his services on the post of Peon may be ordered to be regularised w.e.f. 21.8. 1985 with a further direction to pay regular salary equal to other persons performing the same duties of Peon.

Briefly stated, relevant facts of the case are that the petitioner was initially engaged as part-time water-boy in the office of UCO Bank, Agra Road, Jaipur where he worked upto 20.4.1985. Thereafter, the petitioner was appointed as a daily rated full-time Peon on 21.8.1985 in place of one Baldev Singh, Peon who was transferred from there and since then, he has been discharging the duties of Class-1V employee/Peon. Petitioner has further submitted that he was paid at the rate of Rs. 15/- per day and thereafter his salary was increased to Rs. 18/- per day. At the time of filing the writ petition, he was being paid salary at the rate of Rs. 30/-per day.

2. The respondent-Bank floated a scheme for regularisation of the services of persons working temporarily on daily wage basis. However, case of the petitioner was not considered although similarly situated persons have been considered and regularised.

3. Respondent-Bank has filed reply to the writ petition and submitted that case of the petitioner is not covered by the empanelment and absorption of persons

engaged on daily wage basis Scheme dated 19.10.1989, more particularly eligibility criteria 2(a) according to which Water boy engaged on daily wages would not be eligible for absorption and eligibility criteria 2(e) according to which the casual worker should satisfy the normal stipulation in the Bank regarding age, namely, minimum 18 years and maximum 26 years on the date of his first engagement as casual worker. As regards similarly situated persons, the respondent-Bank has replied that those persons were found eligible and the petitioner cannot claim parity.

4. The submission of the petitioner is that subsequently he was appointed on 21.8.1985 as daily rated full-time Peon and by efflux of time he has attained majority and there is no dispute about it. Further, Manager, UCO Bank, Agra Road, Jaipur in his letter dated 14.10.1986 (Anx. IV) mentioned the fact that the petitioner has been appointed in the vacancy of Baldev Ram transferred to Johari Bazar, Jaipur Branch. He was working as Class-IV since then. The petitioner is fully eligible as per, clauses 2(a) and 2(c) for regularisation of this services.

5. The submission of the respondent is that the petitioner was minor in the year 1982 when he was initially appointed as part-time water-boy, therefore, he is not entitled for appointment as per clause 2(c).

6. Heard learned Counsel for the parties. I have gone through the record of the writ petition and further considered rival submissions of the parties.

7. Before proceeding to consider and decide the rival contentions of the parties, it would be worthwhile to reproduce the eligibility criteria :

2. Eligibility Criteria:

(a) Only persons who have been engaged as casual worker for full day's work and who have been discharging any of the normal duties in the Bank in the subordinate cadre as casual workers for a period of 240 days or more with or without interruption during the period of 3 years immediately preceding this settlement. However, Those who have been engaged as water boy on daily wage would not be eligible for being considered for absorption under this settlement.

(b) For the purpose of computing 240 days, holidays and Sundays in a week would be included if such person has been engaged for the rest of the days in the said week.

(c) Age : Such casual worker should have satisfied the normal stipulation in the Bank regarding age, namely, minimum 18 years and maximum 26 years on the date of his first engagement as casual worker. In case of persons belonging to SC/ST categories, relaxation in age as applicable to such categories shall be permitted.

(d) Educational qualification : Such casual worker should have had a minimum qualification of 8th standard and not passed SSLC or equivalent examination on the date of his first engagement as casual worker.

8. The contention of the respondent that the petitioner was a minor on the date of initial appointment in the year 1982 when he was engaged as part time water boy, therefore, his age in the year 1982 is relevant as per clause 2(c) of the Scheme, When as per clause 2(a) the engagement of petitioner as Water boy is not relevant for regularisation and absorption, then, petitioner being minor on the first date is also not relevant.

9. There is no dispute that from 21.8.1985 the petitioner was appointed on daily wages and discharging duties of Class-IV employee and was not minor on the aforesaid date. Therefore, his initial appointment on part time basis and his age in 1982 will not come in his way. Submission of the Counsel for the respondent that petitioner was rightly denied appointment on the said post has no force and the same is rejected. In my view, the relevant date is 21.8.1985 when he was appointed as daily wager in place of Baldev Singh and allowed to discharge the duties of Class-IV, The respondent committed an error in not taking into consideration the said date as relevant for the purpose of regularisation. Apart from above, in case a minor is allowed to continue in service after attaining majority the same renders the appointment valid for all purposes from the date of attaining the majority.

10. In view of the above, denial of regularisation is contrary to the said provisions of the scheme. Thus, contention of the petitioner deserves to be accepted and the same is accepted.

In the result, the writ petition is allowed and the respondent-Bank is directed to regularise the petitioner in the service and grant him pay scale of Class-IV employee with effect from the date when person junior to him has been granted regularisation as well as pay scale with all consequential benefits.