
(1997) 08 AHC CK 0042

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 23705 of 1997

Omkar Saxena

APPELLANT

Vs

State of U.P.through Secy.Handloom,U.P.Lucknow & Ors.

RESPONDENT

Date of Decision : 28-08-1997

Acts Referred:

Citation : (1997) 08 AHC CK 0042

Hon'ble Judges : S.N.Agarwal, J

Final Decision : Dismissed

Judgement

Sudhir Narain, J.—The petitioner seeks writ of mandamus commanding respondent No. 2 to consider the case of the petitioner for his permanent absorption/appointment against the existing vacancies of Work Supervisor and in case he is not absorbed, he may be given weightage/preference in the selection of such post.

2. The Director, Hathkargna Evam Vastra Udyog Nideshalaya, U.P., Kanpur, respondent No. 2, has issued advertisement inviting applications for appointment to the post of work supervisor. The version of the petitioner is that respondent No. 2 provides grant to various industrial cooperative societies in order to maintain effective control over the management of the societies. The Director also used to recommend the names of qualified and eligible persons to the cooperative societies for appointment to the post of Manager/Secretary. Respondent No. 2 recommended the name of the petitioner for appointment to the post of Manager/Secretary. In pursuance of the said recommendation he was selected for the said post in M/s. Kargha cooperative Society Tandula Tanda, Rampur in the year 1979. He was given appointment letter on 15/10/1979. Thereafter he continued to work in different industrial Cooperative societies. The last society where the petitioner worked was closed down in the year 1990. After the year 1990 he is working as Secretary/Manager in a private society known as Ansar Vastra Udyog Samiti Ltd., Tanda.

3. The respondents, in the month of February 1997, have invited applications for

about 200 vacancies of the post of Supervisors to be filled up on permanent basis under respondent No. 2. The petitioner has made representation for his permanent absorption/appointment against these vacancies. In Para 18 of the writ petition it is stated that respondent No. 2 has orally denied the claim of the petitioner on the ground that he has become overage.

4. Sri K. M. Misra, learned Counsel for the petitioner, submitted that the petitioner is entitled for regularisation to the post of Supervisor under respondent No. 2. The basis of the claim of the petitioner is that on the recommendation of respondent No. 2 he was appointed as Manager/Secretary in various industrial cooperative societies and he having worked in those societies is entitled to be regularised under respondent No. 2.

5. Admittedly the petitioner was not under the service of respondent No. 2. He is alleged to have worked in different cooperative societies on the post of Manager/Secretary on the recommendation of respondent No. 2. The mere fact that the petitioner had worked in different cooperative societies does not confer any right to be regularised in service under respondent No. 2. The regularisation can be claimed by an incumbent who had worked under the same employer. Secondly, the petitioner is alleged to have worked in the industrial cooperative societies only till the year 1990 and thereafter he has not worked in any industrial cooperative society. It is alleged that he is working since then in Private cooperative society. Under the facts and circumstances of the case the petitioner cannot claim the right of regularisation to the post of Supervisor which is now being filled up by respondent No. 2.

6. The second submission of the learned Counsel for the petitioner is that respondent No. 2 had given assurance that he shall be suitably absorbed against the existing vacancies of Supervisors under respondent No. 2. The facts stated in Paras 11 and 18 of the writ petition are vague. There is no documentary evidence in this respect. The petitioner has been disclosed the name of the officer who had given such an assurance. There is no provision under the Cooperative Societies Act, 1965 or Rules framed thereunder that any officer is entitled to give assurance for absorption in service when a person works under various cooperative societies.

7. The next submission of the learned Counsel for the petitioner is that the petitioner should be given relaxation in the age requirement as he had worked under different industrial cooperative societies on the recommendation of respondent No. 2.

8. Admittedly there is no rule/order of the Government or any authority providing for age relaxation in the matter of selection to the post of Supervisors of Cooperative societies under the Industries Department. Learned Counsel for the petitioner has placed reliance upon the decision *Khagesh Kumar and others v. Inspector General of Registration and others*, (1996) 1 UPLBEC 23, wherein the Hon'ble Supreme Court gave certain directions in regard to regularisation of

Registration Clerks and further directed that in case such clerks are not regularised in service, they may be given one opportunity in the matter of selection after giving them relaxation in the matter of age requirements prescribed for such appointment under the Rules. In *State of Haryana v. Surinder Kumar and others*, (1997) 3 SCC 633, it was held that daily wagers engaged on contract basis as clerks can be considered for appointment in accordance with law. If they have become agebarred, the age may be relaxed for the period they have worked. "In *Dr. Surinder Singh .Jam waland another v. Stale of Jammu and Kashmir and others*, AIR 1996 SC 2775, it was held that the ad hoc employees are not entitled for relaxation but they can continue till regularly selected candidates are appointed. They can also apply and seek selection according to Rules and if they become agebarred on relevant date, the State was directed to relax necessary age qualification for them.

9. The petitioner admittedly did not work under respondent No. 2. The contention of the petitioner is that the petitioner had worked as Secretary/ Manager in different cooperative societies and therefore he is entitled for age relaxation to the post which has been notified by respondent No. 2. This contention of the petitioner cannot be accepted. The petitioner cannot be treated under the employment of respondent No. 2 while working in different cooperative societies. It may be that the petitioner was appointed on the recommendation of respondent No. 2 in certain societies but that does not make him under the employment of respondent No. 2. The cases referred to above cited by learned Counsel for the petitioner relate to those cases where the employee was working under the same authority.

10. In view of the above there is no merit in the writ petition. It is accordingly dismissed.