
(2014) 03 MP CK 0062
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 63 of 2008

Phool Chand Tekam

APPELLANT

Vs

State of MP and Others

RESPONDENT

Date of Decision : 07-03-2014

Acts Referred:

Madhya Pradesh Uchha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 — Section 2(1)

Citation : (2014) 03 MP CK 0062

Hon'ble Judges : Rajendra Menon, J; J.K. Jain, J

Bench : Division Bench

Advocate : S.D. Khan and Mr. N.K. Mishra, for the Appellant; Rahul Jain, D.A.G. for State, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal has been filed u/s 2(1) of the M.P. Uchha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhiniyam, 2005, calling in question tenability of order-dated 15.11.2007 passed by this Court in Writ Petition No. 15465/2007(S). Appellant herein was an ex-serviceman and was appointed as a driver by the respondents in the contingency paid establishment for a period of 89 days. His services were extended from time to time, but he was not granted regularization nor was any benefit of regular pay scale granted to him. Accordingly, he sought for his regularization and grant of regular pay.

2. This Court in Writ Petition No. 7124/2003, vide order dated 30.1.2004 directed the respondents to consider his claim for regularization and take a decision within a period of four month. It seems that nothing was done and finally contempt applications were filed and after much persuasion an order was passed on 1.8.2007, vide Annexure A/9, regularizing the appellant as a peon in the department.

3. Challenging his regularization and seeking his appointment on the post of driver in Writ Petition No. 15465/2007 was filed by the appellant and the same

having been dismissed by this Court on 15.11.2007, this writ appeal has been filed.

4. It is the case of the appellant that as he was discharging the duties of a driver and as he is still working as a driver, he was entitled to be appointed on regular basis either on the post of a driver or on an equivalent post. Since he is only regularized in a lower post of a peon, it is said that there is illegality.

5. Learned counsel for the State argued that the appellant is only entitled for consideration of his case for regularization in accordance to the policies and scheme formulated and by placing reliance on a judgment rendered in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, , it was argued that the appellant herein is not entitled to any further relief.

6. We have heard learned counsel for the parties and perused the record.

7. From the records, it is clear that the appellant was employed as a daily wage employee, his appointment was not preceded by any selection process nor was he appointed to any post after following any due process of law. That being so, after orders were passed on 30.1.2004, in Writ Petition No. 7124/2003, his claim for regularization was considered and taking note of various aspects of the matter, which included availability of vacancy, suitability of the candidate and various other requirements, his case was considered and he was regularized on the post of peon. The appellant employee was only a daily wage employee and has no right to seek appointment to a post of his own liking. The respondents having taken action for regularizing him in an appropriate post, in accordance to the availability of vacancy and other circumstances, we see no reason to interfere into the matter.

8. In case, if the appellant has any grievance in the matter of the respondents still taking work from him on the post of driver or in the matter of discrimination in comparison to his juniors, he should challenge the benefit granted to his juniors or seek parity with them by impleading them as party and making an averment with regard to "equal pay for equal work". These reliefs can be considered only if an appropriate prayer is made in this regard.

9. In the present case as only regularization on the post of peon is challenged, and as we see no reason to interfere into the said question of regularization, the order passed by this Court does not call for any interference. Accordingly, with the aforesaid observations, this appeal stands dismissed.