
(2018) 05 UK CK 0034

In the Uttarakhand High Court

Case No : Writ Petition No. 1018 (SS) of 2017

PRAMOD CHANDRA PANT

APPELLANT

Vs

STATE OF UTTARAKHAND AND OTHERS

RESPONDENT

Date of Decision : 09-05-2018

Acts Referred:

Citation : (2018) 05 UK CK 0034

Hon'ble Judges : ALOK SINGH, J

Bench : Single Bench

Advocate : J.C. Pandey, V.D. Bisen, Mukesh Rawat

Final Decision : Dismissed

Judgement

1. Petitioner was appointed as Clerk in Nagar Palika Parishad, Kichha, District Udham Singh Nagar on 01.08.1989 on daily wage basis. In the year

1999, petitioner approached the Allahabad High Court seeking a direction for his regularization. On creation of State of Uttarakhand, that writ petition

was transferred and re-numbered as WPSS No. 1827 of 2001. This Court vide judgment dated 02.04.2008 disposed of the said writ petition directing

the respondents to consider the case of petitioner for regularization in consonance with the guidelines by Apex Court in Umadevi's case. In

compliance of the said order, respondent no. 1 considered the case of petitioner for regularization and rejected the same. Feeling aggrieved, petitioner

has approached this Court challenging the orders passed by the respondents and seeking a prayer for regularization.

2. Learned counsel for the petitioner submits that one post of Clerk was fallen vacant due to retirement of one Shri Sriram but the same has been

filled up by giving appointment to one Sri Harish Negi under the Dying in Harness

Rules on compassionate ground whereas this post should be filled up by regularizing the service of the petitioner.Â

3. I do not find any force in the submission of the learned counsel for the petitioner because both the cases are standing on different footings and petitioner has no legal right for regularization.Â

4. Relying on the judgment rendered by the Honâ??ble Supreme Court in the case of UPSEB Vs. Pooran Chandra Pandey and others reported in 2007 (11) SCC 92, learned counsel for the petitioner submits that petitioner is entitled for regularization.Â

5. Reliance placed by the learned counsel for the petitioner on the judgment of Pooran Chandra Pandey (supra) has no application in the present matter, as in the case of Pooran Chandra Pandey (supra), employees were working with the society and their services had been merged with Electricity Department and regularized against vacant sanctioned posts but in the present case, petitioner is not working against any sanctioned vacant post.Â Â Â Â Â

6. Petitioner was appointed as Clerk on 01.08.1989 on daily wage basis. He was not working against any sanctioned vacant post. Neither the post of Clerk against which petitioner is working was ever advertised nor any selection procedure was adopted. Prayer for regularization has already been considered by this Court in the first round of litigation. In compliance of the Courtâ??s order, respondents have already rejected the claim of the petitioner for regularization on the ground that the same is neither covered under the guidelines issued by Honâ??ble Apex Court in the

Umadeviâ??s case nor under the Regularization Rules, 2013.Â In the judgment of Secretary, State of Karnataka Vs. Uma Devi reported in 2006 (4)

SCC 1, the Honâ??ble Apex Court directed the State Government to frame guidelines for regularization as one time measure. This Court cannot

issue direction for regularization again and again.Â In paragraph 53 of the Uma Deviâ??s judgment (supra) the Honâ??ble Supreme Court has held

as under:

â??53. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the

services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of

tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases

where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also

clarify that regularization, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further

bypassing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.â??

7. Since petitioner is neither working against any sanctioned vacant post nor any due selection procedure was adopted for selection and case for

regularization has already been considered and rejected by the respondent Department, therefore, no direction for regularization can be issued.Â

8. Petition, being devoid of merits, is dismissed.Â No order as to costs.Â Â