

(2007) 05 AHC CK 0025
In the Allahabad High Court

Rais Ahmad

APPELLANT

Vs

Nagar Panchayat and Others

RESPONDENT

Date of Decision : 08-05-2007

Acts Referred:

Citation : (2007) 3 AWC 2954 : (2007) 114 FLR 402

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Vineet Saran, J.—I have heard learned Counsel for the parties and have perused the record. Pleadings have been exchanged and with consent of the learned Counsel for the parties, this writ petition is being disposed of at this stage.

2. The petitioner claims to have been engaged as Safai Nayak on daily wage basis in the respondent-Nagar Panchayat in the year 1996. By means of this writ petition, he claims that since he has been working on such post for the last several years, he would be entitled to be regularized in service and also be paid his salary in the regular pay scale of Safai Nayak.

3. Regularization in service can be granted only in accordance with law. In the absence of the petitioner having been able to show any provision of law under which he would be entitled to be regularized in service, such prayer for regularization cannot be granted. As regards (he payment of salary in the regular pay scale of Safai Nayak, in my view, since the petitioner has never been selected or given appointment through any selection process and had been engaged only on daily wage basis, as such, he would not be entitled to regular pay scale. Such view is support by the decision of the Apex Court in the case of State of Orissa and Others Vs. Balaram Sahu and Others, etc. etc., as well as the judgment of this Court in the case of State of U.P. and Others Vs. U.P. Madhyamik Shiksha Parishad Shramik Sangh and Others, As such, both the prayers made in this writ petition do not deserve to he granted.

4. During the pendency of this writ petition, the petitioner claims that he has been terminated from service by an oral order passed on 1.7.2003.
5. The petitioner has not shown that he was ever appointed on any post. His engagement was only on daily wage basis, which was through backdoor, without giving any advertisement or adopting any selection process. In such facts, in my view, since the petitioner was brought in through backdoor, he can also be exited through backdoor. The moot question in this case is with regard to the initial engagement of the petitioner, which was not through any regular process. In case if a person has got appointment through backdoor, which is not through regular process, he cannot claim that he should be allowed to continue and be not disengaged except in accordance with law.
6. As such, I do not find any force in the submission of the learned Counsel for the petitioner with regard to quashing of his alleged termination also.
7. This writ petition is, accordingly, dismissed. No order as to costs.