
(2008) 12 AHC CK 0046
In the Allahabad High Court

Raj Kumar & Ors

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision : 16-12-2008

Acts Referred:

Citation : (2008) 12 AHC CK 0046

Hon'ble Judges : S.U.Khan, J

Final Decision : Disposed Of

Judgement

S.U. Khan, J.

Heard learned counsel for the petitioners who are 15 in number. Petitioners claim that Nagar Palika Parishad Haldaur, District Bijnor under Pay Jal Yojana, Nagar Palika Parishad appointed the petitioners on contract basis (Theka) on the posts of Nalkoop Operator, Water Works Supervisor, Fitter, Beldar, Collection Clerk, Cashier, Bill Clerk, Typist, Peon, Chaukidar, Mali, Sweeper and Bill Distribution Clerk. It is also stated that posts were advertised in some local paper by the name of Uttar Bharat Times, Bijnor dated 09.10.1997. The said paper has no circulation or negligible circulation. Annexure 3 is the copy of one of the agreements entered in between petitioners and Nagar Palika Parishad. Agreements were for one year. Learned counsel for the petitioners states that similar agreements were executed in favour of other petitioners also. Petitioners joined on different dates some in November 1999 and some in December 1999. However, by order dated 15.04.2000 the agreements were cancelled. Petitioners were given appointment on monthly payment of Rs.1400/ or 1200/ cancellation orders dated 5.04.2000 have been challenged through this writ petition. On 19.05.2000 an interim order was passed by this Court that if the posts on which the petitioners were working still exist, respondent no.3 and 4 are directed to permit the petitioners to continue on the same terms. Learned counsel for the petitioners states that after the interim order some of the petitioners were terminated to work for 2 to 3 days but thereafter they were not permitted to work.

The contention of the learned counsel for the petitioners is that by virtue of Government Order dated 16.05.1995 such appointments were permissible and in view of the said order petitioners were appointed. Copy of the said G.O. is Annexure 1 to the writ petition. By the said G.O. appointments of Daily wagers in Jal Sansthan and Jal Kal Pratisthan were prohibited and it was further directed that Jal Sansthan and other departments to which different jobs were assigned, should get the jobs done through private sector or on Theka (contract). The said G.O. was meant to check the menace of daily wage employment. By directing the person appointed on Theka basis to continue to work, same position will come in to existence. By virtue of the said G.O. specific jobs were to be got done on contract basis. It did not envisage appointments on regular posts on contract basis. In para 2 of the agreement copy of one which is Annexure 3. It was clearly mentioned that the period of one year could be increased or decreased by competent officer and second party i.e. appointee could not have any objection. In view of this condition petitioners cannot complain about cancellation of their agreements midway.

However, the essence of G.O. dated 16.05.1995 was that appointment of daily wagers should be avoided which necessarily meant that whenever there was a vacancy it must be filled on permanent basis in accordance with relevant rules and regulations.

Accordingly, writ petition is disposed of with the direction to the Nagar Palika Parishad to make efforts to fill up the vacant posts strictly in accordance with relevant Rules, Regulations and procedure.