
(1993) 08 AHC CK 0056

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 13907 of 1984

Raja Ram Chaubey and Another

APPELLANT

Vs

District Cane Officer Basti and Another

RESPONDENT

Date of Decision : 18-08-1993

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1994) 1 AWC 63 : (1993) 3 UPLBEC 2041

Hon'ble Judges : D.S. Sinha, J

Bench : Single Bench

Advocate : O.P. Misra, for the Appellant;

Final Decision : Dismissed

Judgement

D.S. Sinha, J.—Heard Sri A.N. Singh, learned counsel for the Petitioners, Sri Sidharth Singh, learned Special Counsel representing the Respondent no. 1 and Sri A.K. Mishra, Learned counsel representing the Respondent no. 2.

2. The Petitioners were Seasonal clerks of the Sahkari Ganna Samiti Limited, Babhnan, District Basti, the; Respondent no. 2, which is, indisputably, a Cooperative Cane Development Union.

3. By means of instant petition the Petitioners have made two prayers, namely, (a) issuance of a writ of mandamus directing (he Respondents to treat them as working since 28th July, 1984; and (b) direction to the Respondents to pay to them salary for the period between 28th July, 1984 and 15th July, 1985, when the season expired.

4. Sri A N. Singh, learned counsel for the Petitioners, very fairly concedes that the prayers of ,the Petitioners, as contained in the petition, cannot be granted. - Alternatively, Le prays that the case of the Petitioners may be considered for the purposes of issuing direction for re-employment.

5. It is not disputed that the controversy involved in the petition is to "be

adjudicated upon in the light of the provisions contained in Uttar Pradesh Cane Cooperative Service Regulations, 1975, hereinafter called the Regulations.

6. Regulation 21 of the Regulations provides that at the end of each crushing season the seasonal staff would be classified in two categories, namely, "A" and "B". It further provides that if the staff is to be placed in category "B" certain procedure has to be followed. Regulation 22 contemplates that after the categorisation of the staff, the list shall be put up before the Zonal or District Authorities for approval and he, after following the procedure prescribed therein, may accord approval in the prescribed manner. Thereafter the list will be final and notified on the notice board. The provisions contained in/ Regulation 26 entitles the seasonal staff placed in category "A" to be re-employed in the next season automatically unless the re-employment becomes impossible on account of reduction of the strength of the staff etc. Regulation 31 provides for appeal to the specified authority against the decision of the Zonal or District authorities arrived at under Regulation 22.

7. The Petitioners initially pleaded that they were category "?" seasonal staff but on being confronted with denial of this pleading and the assertion that they were placed in category "B" after the end of the season 1983-84, contained in paragraph 6 of the counter affidavit of Om Prakash Pathak, filed on behalf of the Respondent no. I, it is conceded on their behalf by Sri A. N. Singh, learned counsel representing them, that they were placed in category "B". But it is contended that the placement of the Petitioners in category "B" was illegal in as much as the procedure provided in Regulations 21 and 22 of the Regulations was not followed.

8. Thus, it has to be concluded that the Petitioners were placed in , category "B" and there was some kind of decision by the authority under Regulation 21 which was approved by the specified authority under Regulation 22.

9. Against the decision of the specified authority under Regulation 22, as noticed earlier, an effective statutory remedy of appeal is contemplated under Regulation 31 of the Regulations.

10. The question as to whether due procedure was followed in placing the Petitioners in category "B" is basically a question of fact and is to be decided on evidence. Normally, such a exercise if not undertaken by this Court in exercise of this extra-ordinary and special jurisdiction under Article 226 of the Constitution of India. The adjudication of the claim for re-employment put forth on behalf of the Petitioners is dependent upon investigation of facts. It would, therefore, be appropriate for the Petitioners to avail the alternative remedy of appeal and agitate the matter there.

11. For what has been said above, the Court is of the opinion that it is not a fit case for interference under. Article 226 of the Constitution of India. The Petitioners may avail alternative remedy as contemplated by Regulation 21 of the Regulations. In case the Petitioners choose to file appeal the same shall be

entertained by the authorities concerned, if it is filed within 30 days from the date of receipt of the certified copy of this order and judgment.

12. Subject to the observations and directions made above, the petition is dismissed. However, there will be no order as to costs.