

(2003) 09 AHC CK 0120

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 35524 of 1999

Rajeev Awasthi and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 05-09-2003

Acts Referred:

Citation : (2003) 6 AWC 5033 : (2004) 1 UPLBEC 45

Hon'ble Judges : Rakesh Tiwari, J

Bench : Single Bench

Advocate : Ashok Khare and V.K. Dixit, for the Appellant;

Final Decision : Dismissed

Judgement

Rakesh Tiwari, J.—Heard the Counsel for the parties and perused the record.

2. The petitioners are agriculture graduates and are enrolled in the Employment Exchange. They were appointed by the District Horticulture Officer, Shahjahanpur, respondent No. 2 on contract basis on a project under Sunishchit Rozgar Yojna run by the Horticulture Deptt. in different blocks of the District Shahjahanpur. Letter of Contract is as under :

vuqcU/k i=

tuin "kktgk?iqj esa fodkl [k.M ds vUrxZr lqfuf"pr jkstxkj ,oa vU; vkS/kksfxd dk;ks? dk lapkyu gsrq A

vkSj ftyk m|ku vf/kdkjh] "kkgtgk?iqj f}rh; i{k ds e/; fuEufyf[kr "krksZ ds v/khu vuqcU/k fd;k tkrk gS &&

?1? ;g vuqcU/k tkjh djus dh frfFk ls izHkkoh gksxk A

?*2? ;g vuqcU/k ;kstuk vof/k vFkok vf/kdre 3 o"kks? ds fy, ekU; gksxk A

?3? vuqcU/k i= esa n"kkZ;s x;s izFke i{k dks fodkl [k.M esa lqfuf"pr jkstxkj ;kstuk ,oa vU; vkS|ksfxd ;kstukvksa ds leLr i;Zos{kdh; dk;Z f}rh; i{k ds

funsZ"kkuqlkj lEikfnr djus gksaxs A

?4? vuqcU/k esa n"kkZ;s x;s izFke i{k dks dk;Z ekg lekIr gksus ds ,d lIrkq i"pkr~ rqjUr izfrQy ds :i esa :i;k 1500-00 ?;i;s ,d gtkj ik?p lkS ek=? vkSj dk;Z {ks= ds vUrxZr okLrfod dh x;h ;k=kvksa ds fy, vf/kdre :i;s 250-00 ?;i;s nks lkS ipkl ek=? izfrekg Hkqxrku dh tk;sxh tks fd f}rh; i{k psd vFkok uxn jkf"k ds :i esa ,d lIrkq ds vUnj fu;ekuqlkj vnk djsxk A rRi"pkr~ izFke i{k bu izkfIr;ksa dh fof/ kor~ jlhn Hkh nsxk A

?*5? vuqcU/k i= esa n"kkZ;s x;s nksuksa i{kksa dks ;g Hkyh Hkkafr ekywe gS fd ftlds fy, ;g vuqcU/k fd;k tk jgk gS mu ij jkT; deZpkfj;ksa dh lsok fu;ekoyh ,oa Je lEcU/kh dkuwu ykxw ugha gksrs A

?6? vuqcU/k i= esa n"kkZ;s x;s izFke i{k }kjk fuEu fooj.kkuqlkj vafdr "krZ Hkh ikyu fd;s tkus ij viuh lgefr nh tkrh gS ftl ij f}rh; i{k p;u lfefr dh vuq"kalk ds vuq;i dk;Zokgh lqfuf"pr djsaxs %

?v? lEcU/kr [k.M fodkl vf/kdkjh ds ;gk? ;ksxnku fd;k tk;sxk A

?c? fof/kekU; lafonk i= fu/kkZfjr vof/k ds fy, Hkjuk gksxk rFkk ;ksxnku djrs le; vko";d "sSf[kd ;ksX;rk ,oa vuqHko bR;kfn ds izek.k i= izLrqr fd;s tk;saxs A

?l? vuqlwfpr tkfr@vuqlwfpr tutkfr] finM+h tkfr vFkok Lora=rk laxzke lsukuh@HkwriwoZ lSfud vkfJr gksus ij l{ke vf/kdkjh@eftLV?sV ds izek.k i= izLrqr dj fn;s tk;saxs A

?n? nks jktif=r vf/kdkjh@ekuuh; lkalnksa@fo/kk;dksa }kjk tkjh pfj= izek.k i= izLrqr dj fn;s tk;saxs tks N% ekg dh vof/k ds ?ij ugha gksaxs A

?;? csjkstxkj gksus dk ?kks"k.kk i= izLrqr fd;k tk;sxk A

?j? vuqcU/k tkjh gksus ds frfFk ls 15 fnu ds vUnj ;ksxnku dj fy;k tk;sxk vU;Fkk bl vuqcU/k i= dks fujLr dj fn;k tk;sxk A

?*7? vuqcU/k fdLh Hkh le; fcuk iwoZ lwpuk ds eq[; fodkl vf/kdkjh] "kkgtgk?iqj dh vuqefr ls lekIr fd;k tk ldrk gS] ftlesa izFke i{k dks u rks dksbZ vkif?k gksxh rFkk u gh U;k;ky; esa tkus dk vf/kdkj gksxk A

?8? izFke i{k dsk dk;Z izkjEHk djus ls iwoZ f}rh; i{k ds uke ls 10]000 :i;s dk QkbMfyVh ck.M Hkjokdj nsuk gksxk rFkk ;fn izFke i{k fcuk ,d ekg dh lwpuk ds dk;Z NksM+dj pys tkrs gSaa] rks f}rh; i{k dks QkbMfyVh ck.M dh /kujkf"k :i;s 10]000@& izFke i{k ls olwy djus dk vf/kdkj gksxk A

g- vLi"V*]

ftyk m|ku vf/kdkjh*]

"kkgtgk?iqj A

3. The State Government by means of letter dated 17th September, 1998 directed that expenditure on the persons appointed under Sunishchit Rozgar Yojna should not be made from the funds allocated to Horticulture Department

for payment of salary to its regular employees. In pursuance of the letter dated 17.9.1998, respondent No. 2 terminated services of the petitioners.

4. The bone of contention raised by the Standing Counsel is that the scheme has been discontinued; as such services of the petitioner is contractual and has been terminated in terms of Clause 7 of the letter of contract vide order of termination dated 15th July, 1999 appended as Annexure 7 to the writ petition. He submits that ad hoc appointment in a project for specified period does not give the petitioner any legal right to be appointment in the Horticulture Department. He further submits that appointment in the department can be made only in accordance with rules for recruitment and the petitioner's want is to become a Government Servant through back door entry without under going any selection and recruitment process.

Reliance has been placed by the Director, Institute of Management Development, U.P. Vs. Smt. Pushpa Srivastava, it has been held that:--

"The appointment was purely ad-hoc and on a contractual basis for a limited period. Therefore, by expiry of the period of six months, the right to remain in the post comes to an end.

To our mind, it is clear that where the appointment is contractual and by efflux of time, the appointment comes to an end, the respondent could have no right to continue in the post. Once this conclusion is arrived at, what regulars to be examined is, in view of the services of the respondent being continued from time to time on ad hoc basis for more than a year whether she is entitled to regularization? The answer should be in the negative."

5. Admittedly the petitioners were employed on project for a period of three years, which has expired and the Sunishchit Rozgar Yojna has been discontinued.

6. The Counsel for the petitioners could not point out any illegality or infirmity in the order impugned. It is settled law that project duration employee has no right to continue in service after the Scheme under which he was appointed, has been discontinued. If the petitioners are aggrieved by the breach of terms of contract, they have alternate remedy of filing suit but the writ petition is not maintainable.

7. For the reasons given herein above the writ petition fails and is dismissed.No order as to costs.