

(2011) 04 AHC CK 0170
In the Allahabad High Court
Case No : Writ A No. 13476 of 2008

Ram Laut and Others

APPELLANT

Vs

The State of U.P. and Others

RESPONDENT

Date of Decision : 29-04-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2011) 5 ADJ 588 : (2011) 130 FLR 484

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Arun Tandon, J.—Petitioners, who are 147 in number, had approached this Court earlier also by means of Writ Petition No. 17537 of 2004 contending therein that under the National Leprosy Eradication Programme (NLEP) launched by the Central Government with the help of the finance provided by the World Bank, the State of U.P. created a District Level Leprosy Society. The Government Medical Officers were given the responsibility for implementing the project. For the said project the Petitioners were appointed on various dates between 1993 to 1997. Admittedly these appointments were fixed term appointment on contract basis on fixed honorarium.

2. According to the Petitioners they have gained experience of working for large number of years under the said scheme. Because of non-extension of the scheme and financial assistance being stopped by the Government of India, the strength of workers were reduced. Therefore, subsequent to 31st March, 2004, the Petitioners were refused work.

3. The Petitioners, therefore, approached this Court seeking quashing of the orders by which the project itself was closed resulting in refusal of work to them. The writ petition was disposed of vide order dated 30.04.2004 after recording a finding that the Petitioners' appointment was purely contractual and therefore no

relief for reinstatement could be granted. It has been further held that the Petitioners could not establish any legal/defensible right for a mandamus being issued for their regularization/continuance in service. However, observations were made in the order that since the Petitioners have now acquired expertise in eradication of leprosy and their disengagement being social problem, the Respondents may consider the plight of the Petitioners and take suitable policy decision for their absorption in any other medical or non-medical department.

4. The Petitioners accordingly approached the State Government. The Special Secretary, Medical, by means of the order dated 27th December, 2007 has refused the prayer made by the Petitioners for their absorption after recording a categorical finding that Hon"ble Supreme Court in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, has held that the procedure, for appointment on the government post, should be transparent and further that under the statutory rules applicable, various posts in the medical health department, appointment has to be made by direct recruitment and there is no provision for absorption of any daily wage or contractual employees. If any orders are issued for absorption of the Petitioners in any other department, it would only result in back door entry, which is legally not justified. Consequently, the representation has been rejected. It is against this order that the present writ petition has been filed.

5. Counsel for the Petitioner, with reference to the paragraphs 34, 35 and 36 of the writ petition, vehemently contended that on an earlier occasion in the year 2004 an assurance was given by the Chief Minister of the State, for examining the grievance of the Petitioners and for scheme being launched. However, with the change of the Government, such policy has been dropped and therefore under the impugned order the Respondents have refused to consider the grievance of the Petitioner for absorption against any other post in any other department of the medical health department. Hence this petition.

I am of the considered opinion that any assurance given by the Chief Minister or for that purpose by any other person will not have the effect of creating a situation whereunder the Petitioners can claim as a matter of right absorption or continuance in service. Till date no Government Order or Rules for absorption has been issued qua the persons like the Petitioners. The State Respondents appear to be justified in recording that in view of the judgment of the Hon"ble Supreme Court in the case of Uma Devi (Supra), process of appointment to government service must be transparent and in accordance with the rules applicable and in conformity with Article 14 and 16 of the Constitution of India. Every citizen has a right to participate in the process of such appointment. He is further correct in recording that such absorption of Petitioners against post available in other department of the medical health department would only amount to back door entry, which is legally not permissible. There is no good ground to interfere with the order of the Secretary.

6. Writ petition is dismissed.