
(2007) 01 AHC CK 0132
In the Allahabad High Court
Case No : Writ Petition No.2905 (S/S) of 2006

Sanjay Kumar Pandey and Others

APPELLANT

Vs

State of U.P.and Others

RESPONDENT

Date of Decision : 17-01-2007

Acts Referred:

Citation : (2007) 01 AHC CK 0132

Hon'ble Judges : Sanjay Misra, J

Final Decision : Disposed Of

Judgement

Sanjay Misra, J.—Heard learned counsel for the petitioner and learned Standing Counsel appearing on behalf of the respondents.

2. Counter and rejoinder affidavits have been exchanged and with the consent of learned counsels for both the parties, this writ petition is decided finally at this stage itself.

3. The petitioners are aggrieved by an order, dated 28.1.2006 (filed as Annexure No.1 to the writ petition) passed by the District Magistrate/Collector, Azamgarh whereby the representation of the petitioners has been rejected. The claim of the petitioners is that they were employed in the Department of Census Operations and subsequently, they were retrenched. The petitioners filed an application claiming absorption in State services by virtue of the fact that they had worked with the Census Department for various periods and having lost the opportunity for any other employment, they were entitled for being considered for absorption. The authority concerned has proceeded to reject the representation primarily on the ground that in the case of Rajesh Kumar Gaud & others v. State of U.P. & others, Writ Petition No.12537/02, this Court had found that employment in State Government is regulated by the statutory rules and, therefore, no absorption can be claimed which would, in any manner, be in violation of the statutory rules. Consequently, since there are no rules nor there is any scheme of the State Government for absorption of such employees as the petitioner, the Court refused to entertain that writ petition. The Court also found

that in case of D.K. Saxena, Hon''ble Supreme Court although had observed that the Union of India may make rules or scheme for absorption of Census employees of the Union, however, it was seen that no such direction or order was issued by the Hon''ble Supreme Court to the State of Uttar Pradesh, as such, this Court in the aforesaid cases found that in absence of any such order, the petitioners therein were not entitled to any relief.

4. Learned counsel for the petitioner has placed reliance upon a decision of the Hon''ble Supreme Court in the case of Govt. of Tamil Nadu and another v. G. Mohamed Ammenuddeen and others, reported in (1999) 7 SCC 499, and stated that by virtue of the aforesaid decision it was incumbent upon the State Government to frame a similar scheme for absorption of the retrenched employees of the Department of Census Operations. He contends that the petitioners having been retrenched had lost their employment and also their chance to seek future employment through the Employment Exchange were entitled to absorption and a scheme ought to have been framed by the State of Uttar Pradesh.

5. Learned Standing Counsel has pointed out that employment of the petitioners was purely for fixed period and there is no such scheme or rule for their absorption made by the State Government.

6. The impugned order appears to have been passed primarily on the basis of the judgment of this Court in the case of Rajesh Kumar Gaud and others v. State of U.P. and others, no error can be found in the impugned order whereby the representation of the petitioner has been rejected.

7. The Hon''ble Supreme Court in the case of Govt. of Tamil Nadu and another v. G. Mohamed Ammenuddeen and others, reported in (1999) 7 SCC 499 observed as quoted hereunder:

?Several contentions have been raised before us but in view of the stand taken now by the appellants, it is unnecessary to examine them. On 11.3.1999, when the matter came up before us, we heard the learned counsel on both sides at length and felt that considering the special features of the case, it would be appropriate for the State Government to frame a scheme to absorb the respondents and other employees, who were similarly placed and who have been retrenched. On the commencement of the census operations, persons who have registered themselves in the employment exchange get jobs in that Department. However, when the project is over, their employment would come to an end and they are retrenched thereby losing both the employment and their position in the queue in the employment exchange. Bearing this aspect in mind, the Government was asked to work out an appropriate scheme.?

8. Therefore, it would be appropriate that the State Government may like to consider formulation of a scheme for absorption of such employees as the petitioners, particularly, when several other persons, as detailed in the writ petition, have been given benefit of absorption by the State Government from

time to time.

9. With the aforesaid observations, this writ petition stands disposed of.

10. No order is passed as to costs.

11. Let a copy of this order be sent to the Chief Secretary, Government of U.P. by the Registrar General of this Court within 15 days from today.

(Ordered accordingly)