
(1992) 11 AHC CK 0001

In the Allahabad High Court

Case No : Special Appeal No's. 460, 461 and 465 of 1992

Virendra Pal Singh

APPELLANT

Vs

District Cane Officer and Others

RESPONDENT

Date of Decision : 25-11-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1993) 1 AWC 663

Hon'ble Judges : M.K. Mukherjee, C.J.;Sudhir Narain, J

Bench : Division Bench

Advocate : G.R. Jain, for the Appellant; Shashi Nandan, for the Respondent

Judgement

Sudhir Narain, J.—These three appeals arise out of common judgment dated 10th September 1992, passed by a learned judge of this Court, whereby the Court did not exercise the discretion under Article 226 of the Constitution of India, regarding services of the Appellants as Seasonal Clerks.

2. The Appellants claimed that they were appointed as seasonal clerks by the Chairman, District Cane Services Authority, Rampur for Ganna Vikas Samiti, Vilaspur district Rampur by separate orders passed on 13-10-1986. Subsequently they were transferred to Ganna Samiti, Bilari District Moradabad by orders of the Deputy Cane Commissioner, Moradabad Division, Moradabad on 20-10-1986. They joined their duties there but they were again transferred to the newly constituted Ganna Samiti, Gadarpur district Nainital by the orders of the Deputy Cane commissioner, Moradabad Division, Moradabad. The Appellants, after they were relieved from Sahkari Ganna Vikas Samiti Ltd, Bilari, gave their joining reports to the District Cane Officer, Haldwani, Nainital who posted them at Sahkari Ganna Vikas Samiti Ltd. Kichha, district Nainital on different dates between December 1987 and January 1988. Subsequently, the services of the Appellants were terminated by the Special Secretary, Sahkari Ganna Vikas Samiti Ltd. Kichha, Nainital by order dated 10th June, 1988.

3. The Respondent filed counter affidavit and took the stand that the Appellant were not appointed on 3rd October 1986 by the Chairman, District Cane Authority, Rampur for Ganna Vikas Samiti, Vilaspur, district Rampur. The photostat copies of their appointment letters were forged. The Appellants were required to produce their original appointment letters by the special secretary, Sahkari Ganna Vikas Samiti Ltd. Kichha, Nainital but they failed to produce their appointment letters in original. The Appellants were never appointed prior to 27-10-86 and after the said date the appointments were banned by the State Government by a general order.

4. It is not necessary to go into the question regarding the date of original appointment of the Appellants. It is admitted that they worked as seasonal clerks and certificates to this effect were issued in their favour by the special Secretary, Sabkari Ganna Vikas Samiti Ltd. Kichha, Nainital and the averments made in para 9 of the counter affidavit are relevant. Para 9 is quoted below:

9. That the contents of paragraph 7 of the writ petition as alleged are denied and it is stated that as the Petitioner had worked in the Society in season 1987-88 they were issued certificates of good conduct by the secretary of the Society.

The facts, as disclosed in the counter affidavit, clearly establish two undisputed facts firstly, that the Appellants worked as seasonal clerks in crushing season 1987-88 and secondly, that seasonal period for which they were appointed also expired.

5. Learned Counsel for the Appellants firstly urged that the order of termination of the services of the Appellants could not be passed by the Special secretary, Sahkari Ganna Samiti Ltd. Kichha, Nainital, as they were appointed by the District Cane Officer, Haldwani, district Nainital and in accordance with Regulation 34 of the U.P. Cane Co-operative Services Regulation 1975 (in short the "Regulations") the services of an employee can be terminated only by appointing authority after giving him one week's notice or one week's salary in lieu thereof it terminated before close of the crushing season. Secondly the appointment letters were not forged and as the Appellants had worked as seasonal clerks in the society they were entitled to continue in service even after the seasonal period came to an end.

6. The services, in Cane Co-operative Societies, are governed by the provisions of U.P. Cane Co-operative Services Regulations 1975. Regulation 3 lays down classification of services and one of the classifications IS FOR "seasonal staff" which includes seasonal clerks. The recruitment and conditions of service of seasonal staff of a Cane Co-operative Society is governed by the provisions of Chapter IV of the Regulations. Regulation 21 provides that at the end of each crushing season the Secretary of the Cane Union shall classify the entire seasonal staff into "A" and B" categories on the basis of their work done during the seasons and put up the category wise list of the seasonal staff before the Committee of the Management of the Union for approval Regulation 26 lays down

that the staff placed in category "A" shall be automatically re-employed in the next season unless the strength of seasonal staff has been reduced in any particular year to such an extent that it may not be possible to re-employ such staff.

7. Admittedly, the Appellants were working as seasonal clerks and their term has expired after the end of crushing. The employment lasts till the end of crushing season Seasonal clerks can be re-employed in the next crushing season in accordance with Regulations. The question, as to whether the Appellants should be given re-employment, is to be considered by the authorities concerned in accordance with the provisions contained in Chapter IV of the Regulations. Respondent No. 3 shall consider the case of the Appellants for re-employment in accordance with the provisions of the Regulations within one month from the date of production of a certified copy of this order.

8. The appeals are disposed of accordingly. There will, however, be no order as to costs.