

Des Raj Vs State of Haryana and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 21, 2006

Acts Referred: Constitution of India, 1950 " Article 226

Hon'ble Judges: M.M.S. Bedi, J; M.M. Kumar, J

Bench: Division Bench

Advocate: R.S. Mamli, for the Appellant; Harish Rathee, D.A.G., for the Respondent

Final Decision: Dismissed

Judgement

M.M. Kumar, J.

This petition filed under Article 226 of the Constitution prays for quashing order dated 7.2.2005 (P-6). A further prayer

has been made to issue directions to the respondents to regularize the services of the petitioner with all consequential benefits from due date. It is

appropriate to mention here that the petitioner joined with the respondent department in the year 1988 on daily wage basis. On the basis of the

regularisation policies formulated by the State of Haryana, the petitioner earlier filed C.W.P. No. 8238 of 1999 in this Court seeking regularisation

of his services, which was dismissed. However, liberty was granted to the petitioner to file a detailed representation before the authorities who

were to decide the same within a period of three months from the day the representation was made after taking into account all the relevant

instructions and to pass a fresh speaking order. The respondents did not regularise the services of the petitioner and passed an order dated

5.12.2002, rejecting the case of the petitioner (P-5). The petitioner again approached this Court by filing C.W.P. No. 9126 of 2004. The said writ

petition was disposed of on 18.9.2004 and the order reads as under:

The controversy raised by the petitioner relates to regularisation. It is not possible to examine the instant controversy in exercise of our jurisdiction

under Article 226 of the Constitution of India, in view of the fact that there are certain disputes on a vital factual aspect of the controversy i.e. the

number of days during which the petitioner had rendered service while in the employment of the respondents.

In the facts and circumstances of the matter, we consider it just and appropriate to afford an opportunity to the petitioner to furnish further details

to the respondents so as to substantiate the number of days during which he had discharged his duties (of course keeping in mind the cut off date

envisaged under the relevant policy instructions). The needful be done through a representation within three months from today.

On the filing of such representation, the claim of the petitioner shall be reconsidered for regularisation by the competent authority in accordance

with the relevant policy instructions read with judgments rendered by this Court in Tek Chand v. State of Haryana 2002 (1) SCT 308 and Kavita

Gandhi v. State of Haryana 1997 (4) RSJ 760 and any other relevant judgment on the point, and a well reasoned speaking order shall be passed

within three months from the date of submission of the aforesaid representation along with a certified copy of the instant order.

In case the petitioner is found entitled for regularisation, he shall also be entitled to all consequential benefits from the date of his regularisation. Till

the final decision of the matter at the hands of the respondents, status quo shall be maintained qua services of the petitioner. Disposed of

accordingly.

Copy of the order be given/issued on payment of usual charges.

2. In compliance with the aforementioned order, the Divisional Forest Officer, Yamuna Nagar Forest Division, Yamuna Nagar, passed a detailed

speaking order dated 7.2.2005 (P-6) and rejected the claim of the petitioner, which is the subject matter of challenge in the instant petition.

3. Having heard the learned Counsel for the parties and perusing the record, we are of the considered view that no mandamus can now be issued

for regularization of the services of the petitioner because of the view taken by Hon'ble the Supreme Court in a Constitution Bench judgment in

the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, . Similar matter has come up before this Court in Rajinder Kumar

v. State of Haryana and Ors. C.W.P. No. 7563 of 2005, decided on 25.4.2006) wherein similar arguments were raised and we have dismissed

the same in view of law laid down in Uma Devi's case (supra).

4. Therefore, the writ petition fails and the same is dismissed.