

Devnandan Charmakar Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Nov-21-2012

Appellant : Devnandan Charmakar

Respondent : The State of Madhya Pradesh

Judgement :

Devnandan Charmakar versus State of MP and two otheRs.21.11.2012.

Shri D.S.Chouhan for the petitioner.

Shri V.P.Tiwari, Panel Lawyer, for the State.

This petition was filed on 10.12.2007, it is yet to be admitted.

Today it is listed for admission.

Challenging the order-dated 24.1.2007 rejecting the application of the petitioner for grant of appointment in accordance to certain directions issued by this Court in Writ Petition No.8977/2003, petitioner has filed this writ petition.

Petitioner was appointed as a Sweeper on temporary basis vide order-dated 14.9.1992.

He worked for about 4 months and thereafter his service was terminated.

On the ground that petitioners services have been terminated without giving any reason and without grant of opportunity of hearing, he challenged the termination by filing an application before the State Administrative Tribunal under section 19 of the Administrative Tribunals Act.

The said case was registered as O.A.No.1371/1994 and after winding up of the Tribunal the case was transferred to this Court and was registered as Writ Petition No.8977/2003.

On 7.12.2004, a Bench of this Court disposed of the writ petition with a direction to consider the claim of the petitioner and give him appointment in accordance with law.

The case has been considered and rejected and, therefore, petitioner is again before this Court.

2 Devnandan Charmakar versus State of MP and two otheRs. Having heard learned counsel for the parties and on a perusal of the record, it is seen that the case of the petitioner was examined by the competent authority.

On such examination it was found that appointment to the post in question has to be done in accordance to the MP Class IV Employees Recruitment Rules, 1977, which contemplates issuance of an advertisement, calling for names from the employment exchange, conduct of an interview and selection process and then appointment.

It was found on inquiry that in the matter of appointment of the petitioner neither any requisition or information was called for from the employment exchange, no advertisement was issued and even without conducting any process of selection, the appointing authority unilaterally appointed the petitioner and as the appointment was found to be contrary to the statutory rules, it has been terminated.

Holding that the petitioners initial appointment itself is contrary to the Rules, the representation of the petitioner for appointment has been rejected.

Nothing is brought to the notice of this Court on the basis of which the impugned action and the reasons given therein can be termed as illegal warranting interference.

Petitioner is seeking appointment to a post in the public service and appointment to such a post can be granted only after following due process of law, which contemplates issuance of advertisement, calling of names 3 Devnandan Charmakar versus State of MP and two others from the employment exchange and conducting a selection process, which is known to law.

In the present case, none of these procedures are followed and as the initial induction of the petitioner itself in the department is illegal, I find no error in the action of the respondents in rejecting the claim of the petitioner.

Accordingly, finding no merit in the matter warranting consideration, the petition stands dismissed.

(RAJENDRA MENON) JUDGE Aks/-

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