

Devendra Kumar Vs. Union of India Dept.

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Court : Madhya Pradesh

Decided On : Oct-09-2013

Appellant : Devendra Kumar

Respondent : Union of India Dept.

Advocate for Pet/Ap. : Shri. Dinesh Upadhyay

Judgement :

Devendra Kumar versus Union of India and others.W.P.

No.17552/13 9/10/13 Shri Dinesh Upadhyay, learned counsel for the petitioner.

Challenge in this petition under Article 227 of the Constitution is made to an order dated 16th July, 2013 passed by the Central Administrative Tribunal, Jabalpur Bench, Jabalpur in O.A.No.385/13.

Petitioner was appointed as a part time Sweeper/Peon in the establishment of Railway Mail Service, Jabalpur.

He worked for various periods from 8/12/92 upto the year 2000 and, thereafter, as he was not engaged or regularized, he approached the Tribunal seeking regularization of service on the post of Sweeper/Farras and for issuing an appointment order.

The application having been rejected, petitioner has filed this writ petition under Article 227 of the Constitution.

From the documents filed by the petitioner particularly Annexures A-2 and A-3, it is seen that petitioner was only a part time Sweeper and was appointed in accordance with the need of the work.

He has worked for about 13 years between 12/05/87 upto the year 2000 and, thereafter, for certain period in the year 1992.

However, there is no material available on record to indicate that petitioner was appointed or inducted into the service after following the due process of appointment in accordance with the recruitment rule.

There is nothing available on record to show that appointment of the petitioner or his engagement even as a part time employee was preceded by any selection process being conducted or his appointment was in a sanctioned vacant post.

Considering the fact that petitioner was only a part time employee and was engaged in accordance with the need of the work Devendra Kumar versus Union of India and otheRs.and his services were only utilized when there was a strike in the department, we see no error in the order passed by the Tribunal particularly in view of the law laid down by the Supreme Court of regularization in the case of Secretary, State of Karnataka and others versus Uma Devi and otheRs.2006 (4) SCC1& 2006 (4) AIR217.

Accordingly, finding no error in the order passed by the Tribunal rejecting the claim, this petition stands dismissed.

(Rajendra Menon) (R.S.Jha) Judge Judge Vy/-

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