Shrikanth Vs. Union of India

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Court : Karnataka

Decided On : Jan-19-2015

Judge : L. Narayana Swamy

Appeal No. : Writ Petition No. 84948 of 2011 (S-Reg.)

Appellant : Shrikanth

Respondent : Union of India

Judgement :

1. The petitioner submits that fourth respondent-Deputy Director of Income Tax (Investigation) Office Gulbarga, engaged his service as driver in the year 2000. Thereafter, the said office at Gulbarga has been transferred to Belgaum and as a result the petitioner was also transferred to Belgaum and as such till today he is working in service as engaged by the fourth respondent pursuant to internal communication dated 8-8-2000 (Annexure-A). He has been paid salary out of expenditure as per proceedings of the Director of Income Tax (intelligence) dated 28.10.2014 and 10.11.2014. Pursuant to the internal communication dated 8-8-2000, Deputy Director of Income-Tax is directed to engage/appoint driver-cum-peon on contingent basis which resulted in appointing/engaging the services of this petitioner. There was correspondence between the Additional Director of Income Tax, Belgaum and the Chief Commissioner of Income Tax, Bangalore vide letter dated 15.11.2007 with regard to regularization of service of daily wage workers and the names of four persons were forwarded. Learned counsel for the

petitioner submits that out of four persons the services of only Sl.No.1 and 2, viz., Shivaji Kalkambkar, Shekhar Shahapurkar, have been regularized since they have completed 10 years whereas petitioner has put in only eight years of service as on that date and his services have not been regularized.

2. Learned counsel for the petitioner submits since the date, from which initial engagement of the petitioner i.e. 8-8-2000 is taken into consideration, the petitioner, has put in more than 14 years of service. At this juncture if petitioner's services are not regularized, he will be put to great hardship. In that event of the matter, the impugned action on behalf of the respondents is arbitrary and violation of Articles 14 and 15 of the Constitution of India.

3. Learned counsel for the respondents prays for dismissal of this petition. He submits that the services of the petitioner were engaged on contingent basis and it was not a regular appointment and the petitioner has no right to seek regularisation of services, and a writ of mandamus cannot be issued to regularise services of the petitioner. Regularizing service of the petitioner on the pretext of regularisation of services of other two persons does not give any benefit to the petitioner. Therefore, he prays for dismissal of the petition.

4. The internal communication dated 15.11.2007 No.ADDL.DIT(INV.)/BGM/D.W /2007-08 cannot be referred by the petitioner since it is not pertaining to him.

5. I have heard both sides. The disputed fact is that petitioner was engaged to work for the respondent may be in different capacities and since the year 2000 work has been extracted by the office of the respondent may be initially on a contingent basis but further on regular basis as is reflected in the internal communication dated 15.11.2007 in which, office of the Addl. Director of Income Tax, Belgaum has forwarded the names of four persons with regard to regularization of their service and communicated to the Chief Commissioner of Income Tax, Bangalore. There was move of regularization of services of such employees when the respondents have proceeded to regularise the services of similarly situated persons, and have regularised the services of only two persons by not extending the same benefit to petitioner, the said action is to be inferred as an arbitrary one. After putting nearly fifteen years of service, at this juncture if it is

denied, it is violation of the human right also. In the result, I pass the following:

ORDER

Respondents are directed to pass appropriate orders, more particularly, keeping in view the internal communication dated 15.11.2007 Annexure-D. Time to comply with the order is months from the date of receipt of a certified copy of this order.

Writ petition disposed of.