

Kalu Ram Vs. State of U.P. and Another

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Court : Allahabad

Decided On : Nov-18-1999

Reported in : 2000(1)AWC509; (2000)1UPLBEC85

Judge : M. Katju and ;D.R. Chaudhary, JJ.

Acts : [Constitution of India](#) - Articles 14

Appeal No. : C.M.W.P. No. 17456 of 1999

Appellant : Kalu Ram

Respondent : State of U.P. and Another

Advocate for Def. : S.C.

Advocate for Pet/Ap. : H.N. Tripathi, Adv.

Judgement :

M. Katju and D. R. Chaudhary, JJ.

1. Heard learned counsel for the petitioner and learned standingcounsel.
2. The petitioner is challenging the impugned termination order dated7.4.99 (Annexure-12 to the writ petition). The petitioner was appointed in the year 1963 as Junior Engineer in Minor Irrigation Department. Uttar Pradesh Government. At the time of termination of service, he was working as Executive Engineer. Thus,

the petitioner has put in about 36 years service. Now the impugned termination order dated 7.4.99 has been passed in which it has been stated that the petitioner did not possess a Diploma from a recognised institution and hence his initial appointment in the year 1963 was illegal. The Diploma, which the petitioner has is from Asia Engineering Institute, New Delhi and it is alleged that this body is not recognised by the Central or State Government.

3. In our opinion, it is not open to the respondents to suddenly wake up after a gap of 35 years and declare that the petitioner's certificate which he obtained before entering service in the year 1963 was not a recognised certificate, and hence the petitioner's initial appointment in the year 1963 is invalid. The petitioner has been working since the year 1963 onwards until the date of the termination order and thereafter he was working in pursuance of the order, of this Court dated 26.4.99, but he has not been paid his salary after the date of termination.

4. In our opinion, the validity of the petitioner's Diploma should have been considered at the time of appointing him in the year 1963 or within a reasonable period thereafter, but this matter cannot be examined after a gap of 35 or 36 years, as that would be wholly arbitrary. As held by the Supreme Court in *Maneka Gandhi v. Union of India*, AIR 1978 SC 597 arbitrariness violates Article 14 of the [Constitution of India](#). The view we are taking also finds support from the decision of the Supreme Court in *Smt. Bhagwati Devi and others v. Delhi State Mineral Development Corporation*, AIR 1990 SC 371, vide paragraph 6.

5. On the facts and circumstances of the case, we allow the petition and quash the impugned order dated 7.4.99. The petitioner shall be paid his arrears of salary within three months from the date of production of a certified copy of this order.