

Arvind Kumar Vs. Deputy Director (Admn.) Rajya Krishi Utpadan Mandi Parishad and anr.

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Court : Allahabad

Decided On : Jul-05-1994

Reported in : (1995)ILLJ750All

Judge : R.A. Sharma and ;K.C. Bhargava, JJ.

Acts : [Industrial Disputes Act, 1947](#) - Sections 2

Appeal No. : Spl. Appeal No. 327/1993

Appellant : Arvind Kumar

Respondent : Deputy Director (Admn.) Rajya Krishi Utpadan Mandi Parishad and anr.

Advocate for Def. : B.D. Mandhyan, Adv.

Advocate for Pet/Ap. : A.S. Diwekar, Adv.

Disposition : Appeal dismissed

Judgement :

R.A. SHARMA , J.

1. The appellant was appointed as typist, vide order dated May 4, 1991 for a fixed term of thirty days, for clearing of the excess work in the office of Mandi Samiti. Bareilly. As the excess work in the office of Mandi Samiti could not be completed the term of the appellant was thereafter extended from lime to lime. His services were ultimately terminated vide order dated September 4, 1992, on completion of excess work for which he. was appointed. Against this order he filed a writ petition before this Court, which has been dismissed with the observation that if any vacancy of clerk arises for which the appellant is qualified, he shall be given preference. It is against this judgment of learned Single Judge that this appeal has been filed.

2. The Contention of the learned counsel for the appellant is two- fold; firstly as the appellant has completed more than 240 days in the service of the respondent, his services could not have been terminated in view of Section 25F of the Industrial Disputes Act; and secondly, his service is liable to be regularised as he has completed 240 days in service.

3. The first submission cannot be accepted for the reasons that the case of the appellant falls in one of the exceptions referred to in Clause (bb) of Section 2(oo) of the Industrial Disputes Act, according to which 'termination of the service of the workman as a result of the non-renewal of the Contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein does not amount to retrenchment'. Petitioner-appellant's initial appointment was for a fixed term of thirty days for clearing the excess work in the office of Mandi Samiti, but as the excess work could not be completed within the period his term was extended from time to time and after the work was over his service was dispensed with on the ground that it is no more required. It was a case of an appointment made for the period during which arrear of work is cleared. It was a term appointment which had to come to an end by efflux of time. Supreme Court in Director Institute of Management v. Smt. Pushpa Srivastava 1993-I-LLJ-190 (SC) has laid down that when appointment is made for any period it comes to an end by efflux of time and the person holding such post is not entitled to regularisation of his service. In M. Venugopal v. Divisional Manager, L.I.C. of India Machilipatanam (1994-I-LLJ-

597)(SC) Supreme Court has laid down that the termination of service of the probationer cannot be said to be a retrenchment within the meaning of Section 2(op) of the Industrial Disputes Act, because his confirmation was to depend upon fulfilment of minimum business guarantee and the employee not having fulfilled the minimum business guarantee, L.I.C. was justified to terminate his service, without complying with the provisions of the above Act. This case was treated to be a case which falls under Clause (bb) of Section 2(oo).

4. As regards the second submission, it may be observed that it is settled that the service of an employee cannot be regularised merely on the ground that he has completed 240 days in service. In this connection reference may be made to the decision of this Court in the case of Zakir Hussain v. Engineer-in-Chief, Irrigation Department, U.P. Lucknow/(1994-I-LLJ-5) (All).

5. For the reasons given above, this appeal is dismissed.

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