

Amrit Lal Vs. U.P. Public Services Tribunal, Lucknow and Another

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Court : Allahabad

Decided On : Jan-08-2001

Reported in : 2001(1)AWC787; [2001(88)FLR908]; (2001)1UPLBEC585

Judge : D.S. Sinha and ;A.K. Yog, JJ.

Acts : Public Service Commission) Rules, 1979 - Rule 9; [Constitution of India](#) - Article 226

Appeal No. : C.M.W.P. No. 4231 of 1990

Appellant : Amrit Lal

Respondent : U.P. Public Services Tribunal, Lucknow and Another

Advocate for Def. : V.N. Agarwal and ;S.C., Advs.

Advocate for Pet/Ap. : Ram Shiromant Shukla and ;Mahendra Pal Singh, Advs.

Judgement :

ORDER

D. S. Sinha, J.

1. Heard Sri Mahendra Pal Singh, learned counsel appearing for the petitioner, and Sri V. N. Agarwal, learned standing counsel of the State of U. P., representing the respondents.

2. Order and judgment of the U. P. Public Services Tribunal, Lucknow, dated 5th January, 1990, is under challenge in this petition under Article 226 of the [Constitution of India](#). By the impugned order and judgment, the claim petition of the petitioner, an erstwhile class-IV employee of Tehsil Sirathu, district Allahabad, for setting aside the termination of his services, has been turned down. The Tribunal has found that the appointment of the petitioner was purely on stop-gap arrangement and his services were liable to be terminated in accordance with the terms and conditions of the appointment.

3. Learned counsel appearing for the petitioner contends that the Tribunal failed to notice the provisions of Rule 9 of U. P. Regularisation of ad hoc Appointments (On posts outside the purview of the Public Service Commission) Rules, 1979, (hereinafter called the Rules), according to which the petitioner was entitled to regularisation of his services. Therefore, the impugned order and judgment of the Tribunal suffers from manifest error of law warranting interference of this Court.

4. The submission of the learned counsel for the petitioner is misconceived on following two counts : (i) firstly, the Rule 9 of the Rules was incorporated on 2nd May, 1984, as is evident from the perusal of Annexure-3 to the petition, and according to the newly added Rule 9, the benefit of regularisation was available to only such employees who were in service on the date of the commencement of Rule 9, i.e., on 2nd May 1984. Admittedly, the services of the petitioner had already been terminated in the year 1983, as noticed in the impugned order and judgment, and he was not in service on the date of enforcement of Rule 9 ; and (ii) secondly, the provisions of Rules do not confer any right upon the ad hoc employee for regularisation. What is stipulated in the Rule is that the ad hoc employee, if otherwise found eligible in terms of the provisions of the Rules, shall be considered for regular appointment in permanent or temporary vacancy as may be available upon selection by the selection committee.

5. From the perusal of impugned order and judgment, it transpires that a selection for regular appointment was held and in this selection, the petitioner also appeared but he failed to qualify. Having failed to qualify in the test for regular appointment, the petitioner lost his claim, if any, for appointment on regular basis.

6. A supplementary-affidavit has been filed on behalf of the petitioner today. To this supplementary-affidavit, the petitioner has annexed a copy of the order dated 19th June, 1982, whereby he was appointed as class-IV employee on ad hoc basis. A perusal of this order reveals that the ad hoc appointment of the petitioner was co-terminus with the availability of the regularly selected candidates. Further, the appointment was liable to be terminated at any time without notice. There is no dispute that the regular selection was held in which petitioner also appeared but failed. Likewise, there is no dispute, pursuant to regular selection regularly selected candidates became available. Thus, on availability of the regularly selected candidates, appointment of the petitioner became liable to be terminated to give way to the regularly selected candidate.

7. For what has been said above, the Court does not find any substance either in the claim of the petitioner for regularisation or in the challenge to the impugned order and judgment.

8. All told, the petition is devoid of merit. Accordingly, the petition is dismissed. However, there is no order as to costs.