

Vimla Singh (Smt.) Vs. Chief Engineer (East Zone) and ors.

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Court : Allahabad

Decided On : Mar-10-2004

Reported in : (2004)2UPLBEC2092

Judge : Rakesh Tiwari, J.

Appeal No. : Civil Misc. Writ Petition No. 22960 of 2003

Appellant : Vimla Singh (Smt.)

Respondent : Chief Engineer (East Zone) and ors.

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Salil Srivastava, Adv.

Judgement :

Rakesh Tiwari, J.

1. Heard Counsel for the parties and perused the record.

2. The petitioner has sought for a writ of mandamus commanding the Executive Engineer, RES (respondent No. 2) to regularize her services on the post of Assistant Clerk in the office of Arth Avam Sankhya Adhikari, Ballia with all service benefits of a regular employee.

3. The case of the petitioner, in brief, is that she was appointed on 1.10.1992 on daily wages as an Assistant Clerk on Twenty Point Programme under Arth Avam Sankhya Adhikari, Ballia but after working for about 11 years continuously her services are yet to be regularized despite several representations made by her in this regard.

4. From Annexure 1 to the writ petition it appears that the petitioner was working on honorarium on the daily wages rate under the Twenty Point Programme. She is neither an employee of the State Government nor she is holder of any civil post but is working under a scheme/project. Admittedly she is not paid wages by the State Government but is being given honorarium for her services.

5. One Manoj Kumar who is alleged to be junior to the petitioner filed Writ Petition No. 34068 of 1998. The Court while disposing of this writ petition by order and judgment dated 26.10.1998 observed :

'Having heard learned Counsel for the parties, and regard being had to the facts and circumstances of the case, I am of the considered view that it is not necessary for the Court to go into the question as to whether or not the petitioner has made out a case of regularization for it would meet the ends of justice if the writ petition is disposed of with the direction that in case the petitioner files a representation, the 3rd respondent shall examine the representation vis-a-vis the legal right, if any, of the petitioner to be regularized in the cadre and dispose of the representation by a speaking order within a period of two months from the date of receipt of certified copy of this order along with copy of representation.

Sd/-S.R. Singh, J.

26.10.1998.'

6. The petitioner alleges to have made a representation along with relevant documents for consideration of her regularization but it is alleged that the respondents have not responded. As stated above the petitioner herself has admitted that she is working on honorarium under a scheme of the Government. Thus, she is not a Government employee and is not holding any civil post. The

Court cannot order for regularization directly and it is for the competent authority. The petitioner is working under a project/scheme in which regularization of project employee cannot be directed by this Court as has been held in case of Surendra Kumar v. Vikas Adhikari, 2003 (5) SCC 12.

7. However, in view of the fact that junior to her has been regularized in service, the respondents shall consider her case also and decide her representation by a reasoned and speaking order within four months from the date of production of a certified copy of this order before them by the petitioner.

8. With the directions given above, this writ petition is disposed of. No orders as to costs.

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