

Ram Kumar Sonkar and ors. Vs. Zila Nirvachan Adhikari/Zila Adhikari and ors.

Ram Kumar Sonkar and ors. Vs. Zila Nirvachan Adhikari/Zila Adhikari and ors.

SooperKanoon Citation : sooperkanoon.com/485179

Court : Allahabad

Decided On : Sep-16-1997

Reported in : (1997)3UPLBEC1850

Judge : D.K. Seth, J.

Acts : Uttar Pradesh Industrial Disputes Act, 1947 - Sections 6N

Appeal No. : Civil Misc. Writ Petition No. 30798 of 1997

Appellant : Ram Kumar Sonkar and ors.

Respondent : Zila Nirvachan Adhikari/Zila Adhikari and ors.

Advocate for Def. : S.G. and ;Anil Kumar, Advs. holding brief for Aditya Narain

Advocate for Pet/Ap. : Rajeev Kumar Srivastava, Adv.

Disposition : Petition dismissed

Judgement :

D.K. Seth, J.

1. The petitioners were engaged on daily wage basis initially for a period of four months by an order dated 16-10-1995 which is Annexure-1 to the writ petition for

the purpose of performing certain duties related to election. Thereafter they were permitted to work till 28-2-1997 after which the petitioners are not permitted to work.

2. Learned counsel for the petitioners Shri Rajeev Kumar Srivastava contends that the petitioners service were terminated in violation of Section 6-N of the U.P. Industrial Dispute Act without giving any notice or pay in lieu of the notice, therefore, the said order of termination can not be sustained. The petitioners having been appointed for 4 months had been allowed to work therefore by reason thereof they have acquired the right to continue in the post, He further relies on the letter dated 30-7-1997, Annexure-18 to the writ petition, issued by the District Magistrate who had recommended for continuance of the petitioners work, contends that the petitioners should have been allowed to work since still there is necessity for carrying of the work in the department.

3. Shri Anil Kumar, learned counsel holding brief for Shri Aditya Narain, learned counsel for respondent No. 2 submits that the said letter dated 30-7-1997 contained in Annexure-18 to the writ petition has been issued in contravention to the direction of respondent No. 2 on 4-3-1997, therefore by reason thereof the letter of the District Magistrate is wholly beyond the competence. A Copy of the letter dated 4-3-1997 issued by respondent No. 2 has been produced by the learned counsel appearing for respondent before this Court. He further submitted that the petitioners' appointment having been for a particular purpose and for a limited period and the petitioner having been extended by an order dated, 5-2-1996 till 28-2-1997 which fact was known to them, their services had come to an end and automatically after the said period, therefore, there is no requirement of compliance of Section 6-N of the U.P. Industrial Dispute Act He also points out from the letter dated 27-1-1997, Annexure 5 to the writ petition where the situation was clarified to the extent that the period which was extended till 28-2-1997 can no more be extended and no financial sanction is available and the work has to be completed by the said period and that no daily wage workers should be allowed to continue beyond the said period. Therefore, according to him, the petitioners have not been able to make out any case for interference.

4. Learned Standing Counsel adopts the submissions of Mr. Anil Kumar.

5. After having heard learned counsel for the parties, it appears that the petitioners were originally appointed for a particular purpose for specific work which by reason of Government Order dated 5-2-1996 extended till 28-2-1997 which fact reflected in the letter dated 4-3-1997 produced before this court today. The period of appointment having been limited by time and financial sanction has not been given for further period, the petitioners can not acquire any legal right to continue in view of the decision in the case. Then again recommendation dated 30-7-1997 contained in Annexure-18 appears to be wholly contrary to the directions given in the letter dated 4-3-1997. therefore, no importance can be given to the said letter contained in Annexure-18. The appointment having been limited and by reason of the Government Order dated 5-2-1996 it came to an end on 28-2-1997. The same could only be extended if the available and financial sanction is given for the said purpose after 28-2-1997. The appointment ceases on the expiry of the time so limited therefore it can not be said to be a termination of services for which Section 6-N of the U.P. Industrial Dispute Act can be attracted, therefore, the contention of the petitioner can not be accepted, in the facts and circumstances of the case. Therefore, I am not inclined to interfere with the matter.

6. Learned counsel for respondent No. 2 had also relied on the decision in the case of Raj Kumar Srivastava and Ors. v. State of U.P. and Ors., passed in writ petition No. 12711 of 1997 and contends that the petitioners therein are identically situated with that of the petitioners herein in the District Election Commission Office of some other District. Their cases were dismissed on the ground that the petitioners therein have no right to continue on their post. An appeal was preferred against the said judgment which was decided on 19-5-1997 in Special Appeal No. 309 of 1997 Raj Kumar Srivastava and Ors. v. State of U.P. and Ors. The appellate court had also affirmed the order of the learned single Judge that petitioner-appellants were daily wagers in the establishment and the sanction of the posts has not been extended, therefore, the petitioners did not have any right. However, it was kept open that the appellants may seek fresh appointment if such posts are sanctioned.

7. The writ petition is, therefore, dismissed with the same observation as has been made by the appellate court that dismissal of the writ petition will not prevent the petitioners from seeking fresh appointment as and when such posts are sanctioned or created.

8. There will, however, be no order as to cost.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com