

State of Rajasthan and ors. Vs. Smt. Laxmi Devi

State of Rajasthan and ors. Vs. Smt. Laxmi Devi

SooperKanoon Citation : sooperkanoon.com/769474

Court : Rajasthan

Decided On : Apr-26-2000

Reported in : 2000(2)WLN188

Judge : Rajesh Balia and; Mohd. Yamin, JJ.

Appeal No. : D.B. Civil Special Appeal No. 288 of 1999

Appellant : State of Rajasthan and ors.

Respondent : Smt. Laxmi Devi

Disposition : Petition dismissed

Judgement :

Rajesh Balia, J.

1. This matter comes up on an application filed by the appellant for early hearing of the matter. While granting the application, we have heard the appeal itself.

2. The respondent No. 1 who is a member of Scheduled Caste has filed a writ petition in the year 1989 alleging that she has been appointed as a peon at the Rajkiya Chikitsalaya Lordia as a peon since 5.8.1976 and is continuously working there as a peon. However from the beginning she has been paid Rs. 75/- per month only. In the circumstances claiming a right to be paid wages as are applicable to the post of peon on the principle of equal pay for equal work, she

claimed regularization and payment of salary in the regular pay scale applicable for the post of peon from the date of her initial appointment.

3. In reply to the writ petition State Government has taken the stand that the applicant petitioner did not fit in the frame-work of regularisation scheme and to be paid in regular pay scale because she has been appointed only as a part timer.

4. This plea did not find favour with the learned Single Judge and the petition has been allowed by the order dated 25.7.1997 respondents have been directed that the petitioner shall be entitled to regular pay scale of Class IV employee with effect from 1.4.1989, Calender month beginning immediately after the date of filing of the writ petition i.e. 25.3.1989. It was further directed that respondent consider her case for regularization if the petitioner is still continuing in service.

5. The order is shall challenged by the appellants interalia on the ground that the petitioner could not be given the benefit of regular pay scale or regularization because she was only appointed as part timer. It is on this envil that two decisions referred to by learned Single Judge were sought to be distinguished.

6. Having perused the petition and its reply filed on behalf of the State Government and the documents furnished by the parties we find no substance in this contention. Undoubtedly the State Govt. has taken the plea that the petitioner was given appointment to the petitioner on the post as part time Class IV peon on the fixed emoluments of @ Rs. 75/- per month on the sub-centre and she is engaged only for cleaning the sub-centre. However issuance of Ex. A-1 i.e. order of appointment dated 5.8.1976 is not denied. Ex. A-1 which is undisputed order of appointment and which has been renewed from time to time under which the petitioner continued in service reads as under:

fo'k; %& Jherh y{eh nsoh dks fu;qDr djus ckcr A

mijksDr fo'k; es ys[k gS fd lh-,e-,p-vks-] tks/kiqj vkWu 5634 fnukad 14-7-1976 ds rgr Jherh y{ehnsdh dks prqFZk Js.kh deZpkjh in ij fu;qDr fd; tkrk gSAbudsk izfrfnu :- 75@& feysxs A

g-@&

fpfdRlk vf/kdkjh izHkkjh

izkFkfed Lok LF; dsUnz

ihyok tks/kiqj

7. This order in no mistaken terms, speaks of appointment of the petitioner on the post of peon simpliciter. It neither refers to the appointment as part time appointment nor it prescribes, the duties to be discharged by the appointee. In pursuance of this appointment order what duties are exactly taken from the employee at the site of work during the working hours is the function of the management. What work is actually taken after appointment is given on the post of peon cannot alter the nature of the appointment from what has been offered to an employee. The only document to which our attention has been invited to substantiate the plea of part time appointment is Annexure A-5. discharged by the appointment as Annex. A-5. Annex. A-5 is the experience certificate issued in 1989 by C.M.H.O. in which he has mentioned that the petitioner is working since August 1976 as part time. However this certificate is contrary to the appointment order issued by the very same authority. The certificate cannot alter the tenor of appointment which appears from order of appointment. In the circumstance we do not find any force in this contention raised by the appellant that the case of the respondent is distinguishable on the ground that she has not been appointed to a regular post of peon on full time basis but she is appointed as part time helper to discharge limited duties.

8. The appeal is therefore dismissed. The directions given by the learned Single Judge should be complied with within a period of six weeks from the date of this order if not already complied with.