

N. Selvan Vs. the Inspector General of Police, Crpf,

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Court : Chennai

Decided On : Dec-29-2004

Reported in : (2005)1MLJ352

Judge : Markandey Katju, C.J. and ;N.V. Balasubramanian, J.

Appeal No. : W.A. No. 3751 of 2004

Appellant : N. Selvan

Respondent : The Inspector General of Police, Crpf, ;The Deputy Inspector General of Police and the Principal, Ri

Advocate for Def. : S. Manikumar, S.C.G.S.C.

Advocate for Pet/Ap. : R. Singgaravelan, Adv.

Disposition : Appeal dismissed

Judgement :

Markandey Katju, C.J.

1. This appeal has been filed against the impugned order of the learned single Judge dated 27.8.2004.

2. The appellant was only a daily wage employee who worked from 1991 to 1994. A daily wage employee is only a temporary employee. It is well settled that a

temporary employee has no right to the post vide State Of U.P. v. Kaushal Kishore Shukla : [1991]1SCR29 .

3. Hence, obviously, the appellant has no right to the post.

4. The learned single Judge has, however, directed that he should be considered for fresh appointment if the law permits. In our opinion, there is no infirmity in this order of the learned single Judge. If the law does not permit, obviously, the appellant cannot be considered. For instance, if there is an age limit, then, this Court cannot direct that he should be considered if he has crossed the age limit. It is only if the rules permit relaxation in the age limit that the authority concerned can consider such relaxation in accordance with the said provision for relaxation. But, if there is no provision for relaxation of the age limit, this Court cannot direct that a person, who is over-age, should be considered.

5. Judges cannot take over the role of the Legislature or executive, as held by us in Rama. Muthuramalingam v. Deputy Superintendent Of Police : AIR2005 Mad1 . Judges must exercise self-restraint and cannot direct that the law should be broken, rather, it is their duty to direct that the law should be followed. If a person is over-age, it may cause hardship to him, but on the ground of hardship, we cannot direct that the law should be broken. When there is any conflict between the law and equity, it is the law which has to prevail, however great the hardship that may be caused. As is said in Latin, 'dura lex sed lex', which means, 'The law is hard, but it is the law.'

For the reasons given above, there is no force in this appeal and it is dismissed. No costs.

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