

Deepa Ram Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Jul-04-2011

Judge : Sudhir Agarwal

Appeal No. : WRIT - A No. - 55366 of 2009

Appellant : Deepa Ram

Respondent : State of U.P. and Others

Judgement :

Sudhir Agarwal, J.

1.List revised. None appeared. I have perused the record.

2.Petitioner was working as Seasonal Collection Peon. He was made substantive on 29.11.1996 and retired on attaining the age of superannuation on 31.12.2007. The case of the petitioner is that service rendered by him as seasonal Collection Amin since 20.11.1981 should be treated as qualifying service for the purpose of pension and other retiral benefits. Reliance is placed on Division Bench judgment of this Court in Board of Revenue and ors Vs. Prasad Narain Upadhyay 2006 (1) ESC 611.

3.In my view, the submission is thoroughly misconceived. The service rendered as Seasonal Collection Peon does not qualify for pension. No provision has been shown in this regard. In Prasad Narain Upadhyay (supra), the Division Bench has

recorded a clear and categorical finding rejecting the contention of State Government that incumbent was working as Seasonal Collection Peon and on the contrary this Court held that he was actually appointed as Collection Peon on temporary basis. A temporary appointment followed by substantive (permanent) appointment qualify for pension. That was not a case where incumbent was working as Seasonal Collection Peon. This was the case set up by State Government but not accepted by this Court. This distinction has been pointed out by this Court later on in Civil Misc. Writ Petition No. 14286 of 2008 (Smt. Ramwati Vs. State of U.P. and others) decided on 26.11.2010, wherein this Court said as under:

"Learned counsel for the petitioner while assailing the impugned order denying pension on the ground of non-completion of 10 years service placed reliance on a decision of this Court in Babu Singh Vs. State of U.P. and others, 2006(8) ADJ 371.

However that was a case where the incumbent was appointed on temporary basis and was regularised on 02.05.1995. The department intended to ignore the temporary service rendered by the employee concerned before period of regularisation for the purpose of qualifying service and this Court relying on the Division Bench decision of this Court in Dr. Hari Shankar Ashopa Vs. State of U.P. and others, 1989 ACJ 337 and Board of Revenue and others Vs. Prasad Narain UPadhyay, 2006(1)ESC 611 held that Fundamental Rule 56 as amended in 1975 provides retiring pension to a temporary employee also. Meaning thereby the services rendered as a temporary employee will qualify for pension. The aforesaid judgment is not applicable to a case where the incumbent has worked not as a temporary employee but as a seasonal employee, since the service rendered by a seasonal employee is intermitent and cannot be equated with a temporary employee."

4. In the circumstances, the claim of petitioner to count his service as Seasonal Collection Peon towards pension cannot be accepted since it is de-hors the rules.

5. The writ petition lacks merit. Dismissed.