

SATYENDRA NATH BAIPAI
v.
INSPECTOR GENERAL OF REGISTRATION
UTTAR PRADESH AND ANR.

SEPTEMBER 27, 1995

[S.C. AGRAWAL AND B.P. JEEVAN REDDY, JJ.]

Service Law :

Registration Clerk—Appointment on daily wages—Termination—Writ Petition—Allegation that juniors regularised ignoring him—Writ connected with petitions of other Clerks—Direction by High Court to consider regularisation of junior—Held petitioner's case should also have been considered similarly—Matter remitted to High Court for reconsideration.

The appellant worked as Registration Clerk on daily wages from February 14, 1985 to March 31, 1990. Thereafter his services were not availed of. His grievance was that persons below him in the approved list had been regularised ignoring him. His writ petition, heard along with special appeals and writ petitions of other Registration Clerks was dismissed. In appeal to this Court it was contended for the appellant that in another judgment the High Court directed consideration of a junior daily wage Clerk for regularisation and that in the same manner his case should also have been considered.

Allowing the appeal, this Court

HELD : The writ petition of the appellant should have been considered by the High Court in the light of the circumstances as mentioned by the appellant. The order of the High Court in so far as it relates to dismissal of writ petition filed by the appellant is set aside and the said writ petition is remitted to the High Court for consideration on merits. [107-A-B]

Rajiv Kumar Shukla v. District Registrar Hardoi & Ors., W.P. No.6167 of 1990 decided on 2.7.1990, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9133 of 1995.

A From the Judgment and Order dated 8.2.95. of the Allahabad High Court in W.P. No. 849/95 (8030/90).

Harinder Mohan Singh for the Appellants.

R.S. Misra for the Rspondents.

B The Judgment of the Court was delivered by

S.C. AGRAWAL, J. Leave granted.

C The appellant was appointed as Registration Clerk on daily wage basis by order dated February 14, 1985. He had worked as Registration Clerk on daily wage basis during various periods form February 14, 1985 to March 31, 1990. His services were not availed thereafter. The appellant filed a writ petition (W.P. No. 849/95 [8030/90]) in the Allahabad High Court wherein he claimed that he has been shown at serial No. 1 in the approved list of candidates issued by the District Registrar, District Har-

D dooi, and that the service of Pradyumna Kumar and Maghad Prasad whose names were shown at serial Nos. 5 and 14 respectively in the said list have been regularised but the appellant has not been regularised. In the counter affidavit filed on behalf of the respondents in the said writ petition in the High Court, it was not denied that persons whose names were shown below

E the name of the appellant in the list of approved candidates had been regularised but the appellant had not been appointed though there was a vacancy in District Hardoi where he could be absorbed. The High Court, on March 30, 1993, passed an interim order directing that the appellant be paid regular scale of salary which other Registration Clerks were getting

F with effect from April 1, 1993. The grievance of the appellant is that the writ petition of the appellant was heard by the High Court alongwith special appeals and with petitions of other Registration Clerks appointed on daily wage basis and by the common judgment dated February 8, 1995 the writ petition of the appellant has been dismissed. The learned counsel for the appellant has also placed reliance on the decision of the High Court

G in *Rajiv Kumar Shukla v. District Registrar, Hardoi & Ors.* (Writ Petition No. 6167 of 1990) dated July 2, 1990 wherein direction has been given that the said Rajiv Kumar Shukla who was shown at serial No. 34 in the approved list of candidates be considered for appointment according to rules against the post which shall said become available in District Hardoi

H and in pursuance of the said order he has been appointed on regular basis.

The High Court while dismissing the writ petition of the appellant A has not considered the aforementioned facts relating to the case of the appellant. We are of the opinion that the writ petition of the appellant should have been considered by the High Court in the light of the circumstances referred to above.

The appeal is, therefore, allowed, the judgment and order of the B High Court dated February 8, 1995 in so far as it relates to dismissal of writ petition No. 849/95 (8030/90) filed by the appellant is set aside and the said writ petition is remitted to the High Court for consideration on merits. No costs.

T.N.A.

Appeal Allowed.