

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.608 of 2022
In
Civil Writ Jurisdiction Case No.807 of 2018

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Kamta Prasad Mandal Son of Late Satya Narayan Mandal, resident of Village-
Mahisari, P.S.- Singhwara, District- Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health and Family Welfare, New Secretariat, Vikash Bhawan, Patna.
2. The Director-in- Chief, Health Services Department of Health and Family Welfare, New Secretariat, Vikash Bhawan, Patna.
3. The District Magistrate, Darbhanga, Laheriasarai, Darbhanga.
4. The Civil Surgeon-cum- Chief Medical Officer, Darbhanga.
5. The District Malaria Officer, Darbhanga.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Dharendra Narain Mallik, Advocate
For the Respondent/s : Mr. S.D. Yadav, AAG9

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Service Law—Appointment—appellant was appointed on daily wages—claim of the appellant for regularization of his service on Class-IV post was rejected by the authority on the ground that the appellant does not fulfils the conditions for regularization of service as laid down by the Hon’ble Supreme Court in the case of Uma Devi(3)—appellant has worked for a total period of 1092 days—engagement was not after an open advertisement nor the appellant was working against a sanctioned post—appeal dismissed.

(Paras 6 to 8)

(2006) 4 SCC 1—Referred to.

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For the Respondent/s : Mr. S.D. Yadav, AAG9

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 03-07-2024

1. Heard learned counsel for the appellant and learned counsel for the respondents.
2. The instant appeal has been preferred against the order dated 6.9.2022 passed in CWJC no.807 of 2018 whereby the learned Single Judge was pleased to dismiss the writ petition



filed by the appellant.

3. The case of the appellant in brief is that having been appointed as a DDT sprayer on daily wages on 3.8.1988 in Singhwara Block in the District of Darbhanga, the appellant continued to work in the said capacity for 24 years. He was empanelled by the respondent authorities but as he was not regularized, the appellant moved this Court in CWJC no.6191 of 2005. The writ application was disposed of by order dated 10.7.2006 with the observation that the appellant may move the Government for their engagement/selection which would be considered and disposed of in accordance with law. Accordingly the appellant moved before the respondent authorities for their regularization of services which was rejected by order dated 24.7.2013 (Annexure-8 to the writ application) leading to the filing of the writ application. The writ application having been dismissed, the instant appeal has been preferred.

4. It is submitted by learned counsel appearing for the appellant that the appellant fulfills the criteria as laid down in the case of *Secretary, State of Karnataka vs. Umadevi*(3) [(2006)4SCC1] and the case of the appellant stands on a similar footing to other person whose services have been regularized.

5. The appeal is opposed by learned counsel appearing for



the respondents. It is submitted by learned counsel that there is no illegality in the order whereby the prayer of the appellant for regularization of his service was rejected by the authorities, impugned in the writ application. It is further submitted that the case of the appellant is not covered by the judgment of the Hon'ble Supreme Court in the case of Umadevi(3)(supra) and the learned Single Judge rightly rejected the writ application. Learned counsel submits that neither the appellant was appointed against a sanctioned post nor has he worked continuously for 10 years. The case of similarly situated DDT Sprayers claiming regularization of their services was rejected vide order dated 22.11.2013 passed in LPA no.1059 of 2013 and the same was affirmed by the Hon'ble Supreme Court in its order dated 9.1.2015 passed in SLP (Civil) no.7448 of 2014. It is thus submitted that the instant appeal be dismissed.

6. Having heard learned counsel for the parties and having perused the material on record, it transpires that the fact not in dispute are that the appellant on being engaged on daily wage on 3.8.1988 started working as a DDT Sprayer on seasonal basis. He continued to work for small period every year from 1988 to 2011, details of which has been mentioned in paragraph no.5 of the order of the learned Single Judge. So far



as the claim of the appellant for regularization of his service on Class- IV post is concerned, the same was rejected vide order dated 24.7.2013 passed by the Establishment, Deputy Collector, Darbhanga on the ground that the appellant does not fulfill the conditions for regularization of service as laid down by the Hon'ble Supreme Court in the case of Umadevi(3)(supra). It was held therein that the Union of India, the State Governments and their instrumentalities, as one time measure should take steps to regularize the services of irregularly (not illegally) appointed persons who have worked for 10 years or more on a duly sanctioned post but not under the cover of orders of Courts.

7. So far as the case of the appellant is concerned, from the certificate dated 16.3.2012 issued by the District Maleria Officer, Darbhanga which has been brought on record by the appellant as Annexure-9 to the writ application, in between the period 1988 and 2011, on being employed seasonally, the appellant has worked for a total period of 1092 days. Further as per the case of the respondents, the engagement was not after an open advertisement nor the appellant was working against a sanctioned post.

8. In view of the facts and circumstances stated hereinabove, the Court finds no merit in the instant appeal and



the same is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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