

Municipal Corporation, Bilaspur and Another

Vs

Veer Singh Rajput and Others

Civil Appeal No. 104 of 1995

(Sujata V. Manohar, D. P. Wadhwa JJ)

21.08.1997

ORDER

1. Respondents 1 to 28 are daily-rated muster-roll casual labour employed by the appellant-Municipal Corporation. Their services were terminated w.e.f. 26-8-1993. Therefore, they filed a writ petition before the High Court praying that they be considered for regularisation. By the impugned judgment, the High Court has given a direction to regularise the services of the respondents and has quashed their discharge from service w.e.f. 26-8-1993. The present appeal is filed by the appellant-Municipal Corporation.

2. It is pointed out by the appellant that the establishment expenditure of the appellant-Municipal Corporation had shot up to 92.73% in 1993-94. The details of establishment expenses from 1983-84 to 1993-94 are annexed. The establishment expenditure was 68.33% in 1983-84, 74.03% in 1984-85 and 95.44% in 1985-86. Thereafter it has fluctuated within this range coming up to 96.13% in 1990-91. In 1993-94 which was the relevant year it stood at 92.73%. The Government of M.P. (Legal Cell Department) issued instructions to all Municipal Corporations and others dated 7-8-1990 where it was pointed out that for curbing expenses and maintaining financial discipline, new appointments should be made only provided the prescribed limit of 65% on establishment expenditure is maintained. It also refers to a departmental memo dated 13-9-1988 whereby filling all vacant posts and creating new posts w.e.f. 1-1-1987 has been banned. It also points out that as per notification dated 22-3-1990, all recruitments were banned in Municipal Corporations and Municipalities. It is further stated that "recruitment" includes (inter alia) regularisation of daily-waged employees. There is a further direction given by the Government of M.P. dated 16-12-1992 abolishing all the vacant posts which were not filled till date. In view of the financial stringency, learned counsel for the appellant-Corporation has pointed out that they are not in a position to create new posts or to regularise the respondents.

3. The High Court has purported to follow the decision of this Court in *State of Haryana v. Piara Singh* ((1992) 4 SCC 118 : 1992 SCC (L&S) 825 : (1992) 21 ATC 403). In this judgment in para 25, this Court has pointed out that before giving directions for regularisation, the Court must act with due care and caution. "A practical and pragmatic view has to be taken, inasmuch as every such direction not only tells upon the public exchequer but also has the effect of increasing the cadre strength of a particular service, class or category". In this paragraph there is a discussion on several problems which can arise if wholesale regularisation is ordered. One such problem relates to irregularities in appointments. Candidates who are sought to be regularised may be neither sponsored by the employment exchange nor appointed after issuing a proper advertisement calling for applications. "In short, it may be a back-door entry. A direction to regularise such appointments would only result in encouragement to such unhealthy practices." In the present case, the stand of

the appellant-Corporation throughout has been that these daily-rated employees have been appointed because of political considerations by the Standing Committee. After the Standing Committee was superseded and Administrator was appointed, serious irregularities were discovered in these appointments. In this situation, a direction given by the High Court for regularisation of such persons is not warranted. Our attention has been drawn to the observations made by this Court in *Satyanarayan Sharma v. National Mineral Development Corpn. Ltd.* ((1990) 4 SCC 163 : 1990 SCC (L&S) 586 : (1990) 14 ATC 841) where this Court declined regularisation in a case where there were no vacancies and work was not available in the establishment. In the present case, there is no material indicating that the work is not available. The appointments, however, are irregular and made on political considerations. There are clear government directions for reduction of establishment expenditure and a prohibition on the filling of vacant posts or creating new posts including regularisation of daily-waged employees. The order of the High Court for regularisation of such employees is not warranted. It is in the teeth of these administrative directions and cannot be sustained.

4. It is further urged by the respondents that recently the appellant-Corporation has appointed some employees on daily wages. In the absence of any instructions, learned counsel for the appellant is not in a position to state before us if this is so and the circumstances in which such appointments have been made. But if casual workers or daily-rated workers are now being appointed by the appellant-Corporation, in fairness to the respondents whose services were terminated on the principle of "last come first go", they should be considered for appointment on daily wages in preference to others by waiving the age bar (if necessary) if they are otherwise qualified and eligible for the post.

5. With these observations, the appeal is allowed and the impugned order of the High Court is set aside. There will, however, be no order as to costs.