

(3)
OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

ORIGINAL APPLICATION NO.752 OF 2007

ALLAHABAD THIS THE 13TH DAY OF AUGUST 2007.

Hon'ble Mr. Justice Khem Karan, V.C.
Hon'ble Mr. K.S. Menon, A.M.

Ruchi Rai daughter of Shri Suresh Rai, Resident of Mahamana Malviya
Viddyalai, (Power House Road), Nizamuddin Pura, Mau City, District Mau.

.....Applicant

(By Advocate: Shri A.K. Srivastava/Shri V.K. Srivastava)

Versus.

1. Union of India through Secretary, Ministry of Agriculture, Govt. of India, New Delhi.
2. Director General, I.C.A.R. & Secretary, D.A.R.E., New Delhi.
3. Project Director, Directorate of Seed Research, Kush-maur, Post Office- Kaitihauli, P.O. Box=ii, Mau, District Mau.

.....Respondents

(By Advocate: Shri N.P. Singh)

ORDER

By Justice Khem Karan, V.C.

The applicant has prayed for quashing the advertisement (Annexure 2) by which the Authorities invited applications from eligible persons for, filling in the post of Junior Clerk and has also prayed for setting aside termination order dated 30.5.2007. It is also prayed that respondents be commanded to regularize his services in the light of the judgment of Apex Court in *State of U.P. Vs. Putti Lal, reported in 2002 (2) UPLBEC, 1595.*

2. Applicant alleges that she was appointed as Junior Clerk on Daily Wages basis in the month of January 2006 and she continued working as such till 30.5.2007 when her services were orally terminated. She filed this O.A when the respondents advertised the vacancies including that of Clerical cadre.

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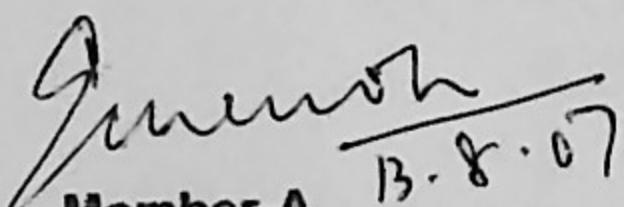
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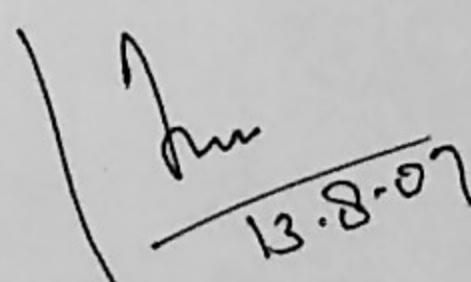
3. Though respondents have disputed that applicant was inducted by the respondents. They say that she was engaged by a contractor. Shri A.K. Srivastava has submitted that in view of various decisions such as *Awadesh Kumar Yadav Vs. Divisional Forest Officer and others*, 2000 A.C.J page 285, *Punjab State Electricity Board and another Vs. Wazir Singh* reported in 2002 Supreme Court Cases (L&S) 398, *I.T.C Ltd. Workers' Welfare Association and another Vs. Management of ITC LTD. and another*, 2002 Supreme Court Case (L&S) 399, *National Federation of Railway Porters, Vendors & Bearers Vs. Union of India and others* JT 1995 (4) SC 568 and *State of Haryana Vs. Pyara Singh* the applicant is entitled to continue in the employment and not only this, she is also entitled to regularization. Shri A.K. Srivastava states that though the applicant has also applied for consideration of her candidature pursuant to the advertisement so impugned in this Original Application but she has a claim for continuing and for getting her service regularized.

4. We are of the view that even if it is accepted that applicant was engaged as Daily Wager Clerk and she discharged the functions of Clerk for one year and few months, even then we have serious doubt whether she can come for quashing the advertisement in question or for reengagement or regularization. After the Constitution Bench of Apex Court in *Secretary, State of Karnataka Vs. Uma Dev (3)* and others, SCC 2006 Vol. 4 page 1, all the judicial pronouncement so cited by Shri A.K. Srivastava will not come to the help of the applicant. The crux of the matter is as to whether applicant was inducted in accordance with the Rules. ^{That was} She does not say she inducted as per Rules. So we are of the view that this O.A. is not one, which can be admitted for hearing, so it is dismissed as not admitted.

No order as to costs.


Member-A 13.8.07

Vice-Chairman.


13.8.07

Manish/-