

Neutral Citation No. - 2023:AHC-LKO:43504**Court No. - 8**

Case :- WRIT - A No. - 7847 of 2019

Petitioner :- Dinesh Kumar

Respondent :- State Of U.P.Thru Prin.Secy. Horticulture And Food Lko.And Ors.

Counsel for Petitioner :- Ashish Verma,Mukesh Kumar Tewari

Counsel for Respondent :- C.S.C.

Hon'ble Dinesh Kumar Singh,J.

1. Heard Shri Anjani Kumar Singh, Advocate holding brief of Shri Mukesh Kumar Tiwair, learned counsel for the petitioner and Shri Ashwani Kumar Singh Rathore, learned Standing Counsel appearing for the State-respondents.
2. The present petition under Article 226 of the Constitution of India has been filed seeking quashing of the order dated 23.12.2017 passed by the District Horticulture Officer, District-Sitapur on the representation of the petitioner which got decided in compliance of the judgment and order dated 07.10.2017 passed by this Court in Writ No.23785 (S/S) of 2017. The order dated 07.10.2017 on reproduction would read as under:-

"Heard learned counsel for petitioner and learned Standing Counsel for respondents.

Present writ petition is filed by petitioner challenging order dated 20th May, 2017, passed by Respondent no. 3 i.e. District Horticulture Officer Udhyan, District-Sitapur, whereby he has rejected representation of petitioner for regularization of services on the ground that he had not worked for sufficient days in a number of years.

Learned counsel for petitioner submits that impugned order is perverse as on the face of it shows that in the years 2015-2016 and 2016-2017, petitioner had not worked during these years.

Learned counsel for petitioner has filed a Supplementary Affidavit today annexing therewith Bank Passbook of petitioner and has drawn attention of court towards anti-date payments made from 25th March, 2014 to 17th January, 2017 by Uttar Pradesh Treasury to Bank Account of petitioner and submits that said amount is wages which petitioner has received. Hence, impugned order wrongly shows that petitioner had not worked in the years 2015-2016 and 2016-2017. He further submits that similarly for other years also, petitioner was made payment for which he had worked.

Looking into facts and circumstances of case, petitioner is permitted to make a fresh representation to Respondent no. 3, i.e. District Horticulture Officer, Udhyan, District-Sitapur, annexing therewith all evidence in proving that petitioner had worked regularly with respondents alongwith certified copy of this order within a period of three weeks from today. In case, such a representation is made by petitioner, respondent no. 3, shall consider the same and pass appropriate orders thereon in accordance with law by a speaking and reasoned order within a period of three months from the date a certified copy of this order is placed before him.

While passing the order, Respondent no. 3, shall consider all evidence filed by petitioner as well as evidence available with department for working of the petitioner.

In case, work is available and is being given to other persons, Respondent no. 3 shall consider petitioner also to work.

With the aforesaid, writ petition is disposed of."

3. Learned Standing Counsel appearing for the State-respondents has drawn the attention of this Court towards a tabular depiction of service rendered by the petitioner on daily wage on the basis of number of days of his presence at work on year to year basis, which is reproduced as under:-

Sr. No.	Year	Presence of Petitioner on work.
1.	1994-95	256 days
2.	1995-96	209 days
3.	1996-97	207 days
4.	1997-98	157 days
5.	1998-99	148 days
6.	1999-2000	94 days
7.	2000-2001	175 days
8.	2001-02	249 days
9.	2002-03	176 days
10.	2003-04	32 days
11.	2004-05	93 days
12.	2005-06	34 days
13.	2006-07	06 days
14.	2007-08	0
15.	2008-09	0
16.	2009-2010	0
17.	2010-11	0
18.	2011-12	0
19.	2012-13	0
20.	2013-14	187 days
21.	2014-15	80 days

22.	2015-16	0
23.	2016-17	0
24.	2017-18	0 (Till Month-December, 2017)

4. It is evident from the impugned order that the petitioner was a daily wager and was initially appointed on daily wage basis in the year 1994-95.

5. Considering the aforesaid fact, it has been stated in the impugned order that the petitioner was not continuously engaged as daily wager and he was only engaged as and when there was requirement and from 2015-16 he was out of employment. It has been said that the petitioner's case does not fall within the purview of Uttar Pradesh Regularization of Persons Working on Daily Wages or on Work Charge or on Contract in Government Departments on Group 'C' and Group 'D' Posts (Outside the Purview of Uttar Pradesh Public Service Commission) Rules, 2016 (hereinafter referred to as "Regularization Rules, 2016").

6. Thus, I find that the petitioner cannot claim regularization under the aforesaid Regularization Rules, 2016 as his status is of not of ad-hoc, daily wage or contractual employee but his status was of casual daily wager.

7. In view thereof, this Court cannot issue a direction dehors the rules for regularization. The claim of the petitioner is not substantiated under the Regularization Rules, 2016, therefore, the present writ petition is hereby **dismissed**.

(Dinesh Kumar Singh, J.)

Order date :- 6.7.2023

Piyush/-