

28.11.2023.
Court No.13
Item No. 63
ap

W.P.A. No. 16 of 2023

**Ujjwal Maji
Versus
The Chairman, Damodar Valley Corporation (DVC) & Ors.**

Mr. Hari Sankar Chattopadhyay.
...For the petitioner.

Mr. Ranjay De,
Mr. Basabjit Banerjee,
Mr. Adityajit Abel Bose.
....For the respondent nos.1 to 5.

1. Affidavit-in-opposition and affidavit-in-reply filed in Court today are taken on record.

2. The petitioner claims to be engaged by the Damodar Valley Corporation (in short 'DVC') on some days of a month from September, 2003 till 2023. He continues to be engaged as such. The petitioner is admittedly a casual employee and/or a Badli worker. He claims that he is on the Muster Roll of the DVC. Provident Fund is also deducted from the wages paid to him. For the huge length of 25 years of engagement from time to time, the petitioner claims that he is entitled to be absorbed in the permanent service of the DVC as a regular employee.

3. Mr. De, Counsel for the respondent nos.1 to 5 has raised twofold objections. It is submitted that there are large number of disputed questions of fact raised by the petitioner as regards his alleged engagement which cannot be gone into by a Writ Court under Article 226 of the Constitution of India. He submits that the

petitioner should be relegated to the Industrial Tribunal under the provisions of the Industrial Disputes Act, 1947 where he can prove by trial on evidence. It is, therefore, argued that the Writ Court should not entertain the petitioner's grievance.

4. The next argument of Mr. De is that even assuming though not admitting that the writ petition could be entertained, Regularization of Casual Labour cannot be ordered by the High Court, inter alia, in view of the decision of the Hon'ble Supreme Court of India in the case of **Secretary, State of Karnataka & Ors. -Vs. - Uma Devi (III)** reported in **(2006) 4 SCC 1**.

5. Per contra on the preliminary questions and on merits, the learned Counsel appearing on behalf of the petitioner would vehemently argue by reference to various documents in the writ petition that there is no dispute to the documents raised by the petitioner. It is further argued that since a prayer for regularization in the instant case is an individual dispute, the same cannot be maintained before the Industrial Tribunal under the provisions of the Industrial Disputes Act, 1947. The petitioner cannot be deemed to be a workman or the disputes raised by him cannot be Industrial Disputes within the meaning of Industrial Disputes Act, 1947.

6. This Court has carefully considered the arguments raised by the respective parties.

7. In the case of **Sunil Kumar Biswas – Vs. – Ordinance Factory Board** reported in **(2019) 15 Supreme Court Cases 617** it has been clearly held that the claims for regularization of service must and should be adjudicated under the provisions of Section 10 of the Industrial Disputes Act, 1947.

8. In the backdrop of the above and the facts of the present case, the decision relied upon by the learned Counsel for the petitioner, i.e. in the case of **Workmen of Shri Rangavilas Motors (P) Ltd. & Anr. – Vs. – Shri Rangavilas Motors (P) Ltd. & Ors.** reported in **(1967) 2 S.C.R. 528** do not have any manner of application.

9. Indeed even assuming for the sake of argument that there are no disputed questions of fact, the High Court cannot and does not and should not order any individual to be regularized in the permanent service of any organization much less than the Public Sector Organization. It is only upon any Scheme being framed by the employer in this regard and only in terms thereof that any regularization process of any workman or set of workmen or employees can be resorted to or directed to.

10. In the backdrop of the above, no relief can be granted to the petitioner in this writ petition. The instant writ petition must fail and is hereby dismissed.

11. There will be no order as to costs.

12. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)