

06.12.2023.
Court No.13
Item No. 10
ap

W.P.A. No. 3515 of 2023

**Rabindranath Khamri & Ors.
Versus
Union of India & Ors.**

Ms. Mousumi Arji,
Mr. Subhadip Paramanik,
Mr. Arun Shome.

...For the petitioners.

Ms. Parna Roy Choudhury.

...For the respondent Bank.

1. The writ petitioners claim to be Badli Sweepers, who were engaged by the former United Bank of India, which has now merged now with the Punjab National Bank.

2. It is submitted that their services have been dispensed with since the Punjab National Bank does not have any provision for engagement of Badli Sweepers temporary or otherwise.

3. As to how long the petitioners have been working in the Sasra and Bara Nigui Branches of United Bank of India now known as Punjab National Bank is not known.

4. It is also not known as to whether there was any permanent post of Sweeper or whether there was any process of recruitment or system followed in engaging the petitioners. These are all disputed questions of fact which can only be appropriately decided before the

Industrial Tribunal under the Industrial Disputes Act, 1947.

5. In fact, any decision based only on affidavit evidence by a Writ Court may cause prejudice to the petitioners in particular and all parties in general.

6. Counsel for the petitioners would, however, rely upon a decision of the Division Bench of this Court in M.A.T. No. 28 of 2022 (Anju Burman & Anr. – Vs. – Canara Bank & Ors.). In the said case certain temporary attendants of the former Syndicate Bank, upon merger with Canara Bank, were denied further engagement. It was contended in the said appeal that Canara Bank has no post for temporary attendants. The appeal filed since interim protection was refused by a Single Bench in the said case. The Division Bench had given interim protection to the appellants therein against their services being dispensed with by the Canara Bank till the writ petition is heard out.

7. This Court notes that the said decision is distinguishable on fact as the post in the instant case is that of the 'Badli Sweeper'.

8. This Court is also reminded 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** which has deprecated the practice of temporary engagement being continued under the orders of the Writ Court, indefinitely.

9. In any event, it appears to this Court that the issue of availability of effective alternative remedy under the Industrial Disputes Act, 1947 does not appear to have been canvassed in the said matter.

10. In view of the above, the instant writ petition is disposed of reserving liberty to the petitioners to approach the Authorities under the Industrial Disputes Act, 1947.

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.)