

04.12.2023
M/L No.1
Court No.8
(gc)

**MAT 761 of 2023
CAN 1 of 2023**

**Ananda Mohan Das
Vs.
Union of India & Ors.**

Ms. Anita Kaunda
...for the Appellant.
Mr. Anil Kr. Gupta
...for the U.G.C..

1. The appeal is arising out of an order dated 24th March, 2023 in a writ petition being WPA 15245 of 2022 in which the prayer of the petitioner for appointment was denied. In the appeal, it is contended that persons similarly placed as that of the petitioner were favoured with the appointment. Moreover, in terms of the order dated 6th March, 2002, the petitioner, being able to establish all the things being equal with the persons who have already been appointed, should have been given the appointment. The learned Single Judge dismissed the writ application on the ground of delay and laches as well as on the basis of the averments made in the affidavit filed by the U.G.C. that he did not work continuously and he was employed by a local service agency. The petitioner

was requested to follow the recruitment procedure for the post of LDC/Typist as and when the recruitment notification is published.

2. On the previous occasion, we passed an order directing the U.G.C. to disclose the basis of appointment of Ms. Malini N. Shah, Sh. Nil Kamal Das, Mr. Himalaya Nirjhar Nayak and Ms. Kabita Shaw and also to disclose the process through which they were appointed and if at all they were appointed by any outside agency before their absorption. The Under Secretary of the U.G.C. affirmed an affidavit dated 5th September, 2023 disclosing the fact. In the affidavit it is stated that the appellant was deputed by a local service agency (Trident Security and Allied Services) from 4th June, 1998 to 31st July, 1998 (58 days) and during May, 2001 and June, 2001 engaged for a few days on a temporary basis to clear some backlog works in the office. The U.G.C. denied the employer-employee relationship. In Paragraphs 12 to 15, the U.G.C. has indicated that the basis of selection of the four candidates is mentioned in the earlier order. It is stated that Ms. Malini N. Shah was appointed as

per procedure followed by the U.G.C. The U.G.C. in its 400th Meeting dated 18th January, 2002 after giving reference of the meeting held on 4th February, 1999 created the ex-cadres posts for the staff specifically working in NET unit, Pune. Ms. Malini Shah was one of the persons who was working in the office of the NET Unit for the last ten years since 17th January, 1990 and was required to be recruited to the post of Assistant Coordinator. She was performing her duties satisfactorily and fulfilled the required Educational Qualification for the posts. Sh. Nil Kumar Das was appointed to the post of Peon as per appointment procedure of the U.G.C. The U.G.C. refers to the meeting held on 20th November, 1997 in which on the basis of the marks scored by the candidates at the interview after giving due preference to the candidates with experience in the U.G.C. works, Sh. Nil Kamal Das along with two others was selected for the post of peon at UGC (ERO). In respect of Sh. Himalaya Nirjhar Nayak, Staff Selection Commission, Government of India issued a letter to the U.G.C. recommending his name for the post of LDC from the reserve

list of Combined Matric Level Examination, 2002 for clerks. It was on the basis of such recommendation and having regard to his position in the panel, he was appointed to the post of clerk. Ms. Kavita Shaw was selected through LDC Recruitment Examination, 2013 conducted by EdCIL (India) Limited. The said establishments issued a letter dated 2nd January, 2014 to the U.G.C. regarding final results of skill test held for LDC in U.G.C. in which her name appeared in the merit list for 489 candidates as Sl.No.32 and thereafter she appointed. It is stated that the aforesaid post was conducted on the basis of the order dated 6th March, 2002. The appellant/petitioner never applied or participated for the same. On 15th June, 2020, the U.G.C. intimated the appellant/petitioner in respect of appointment of LDC/Clerk-cum-Typist in UGC Regional Office, Kolkata and requested the appellant to apply for the said post if he did not apply. It has been categorically stated that Ms. Malini N.Shah, Sh. Himalaya Nirjhar Nayak and Ms. Kavita Shaw were never recruited by any outside agency before the appointment

in U.G.C. and only Sh. Nil Kamal Das was recruited by outside agency before appointment by U.G.C. in the year 1997.

3. The close proximity to which the appellant is referred to is the case of Sh. Nil Kamal Das. It appears that Nil Kamal Das had participated in the interview on the basis of the marks he was given the interview. The appellant initially filed a writ petition in the year 2005 but did not pursue the said writ petition and it was dismissed for default and never restored. There is no explanation for not approaching in the year 2002 by which time the appointment of all the persons whose instances have been given, who were working for a considerable length of time. Moreover, it appears that the ratio of *Uma Devi* would not be applicable to the petitioner and petitioner was unable to demonstrate he worked more than the period mentioned in the affidavit of U.G.C.
4. On such consideration, we do not find any reason to interfere with the order passed by the learned Single Judge.
5. Accordingly, the appeal and the application are dismissed.

6. However, there shall be no order as to costs.

7. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)