

13.10.2023
SL No.33
Court No.8
(gc)

**MAT 1530 of 2022
CAN 1 of 2022**

**Indranarayan Chakraborty
VS
The State of West Bengal & Ors.**

Mr. Sanjib Bandopadhyay,
Mr. Biswajit Dutta,
...for the Appellant.
Mr. Amitesh Banerjee,
Mr. Manas Kumar Sadhu,
...for the State.
Ms. S. Kar Ghosh,
Mr. Arabinda Pathak,
...for the Respondent Nos.4,5 & 6.

1. In view of the fact that the petitioner was not appointed against any sanctioned post, the benefit of the judgment of **Secretary, State of Karnataka Vs. Uma Devi** reported at **2006 (4) SCC 1** cannot be extended to the petitioner.
2. The learned Counsel for the appellant has relied upon the decision of the Hon'ble Supreme Court in **State of Karnataka Vs. M.L. Kesari** reported at **AIR 2010 SC 2587** to argue that the appointment of the petitioner is not illegal, it could be irregular. We are unable to accept the said submission as he was not appointed against any sanctioned post.

3. In **M.L. Kesari** (supra) it has been categorically stated that where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had to be selected without undergoing the process of open competitive selection, such appointments are considered to be irregular.
4. In view of the fact that there was no sanctioned post to which the petitioner made a claim, the same may not be applicable to the petitioner.
5. Under such circumstances, we do not find any reason to interfere with the order passed by the learned Single Judge.
6. The appeal fails.
7. Accordingly, the appeal and the application stand dismissed.
8. However, there shall be no order as to costs.
9. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)