

04.04.2024

THURSDAY

Court : 04
Item : 01
Matter : FMA
Status : DISMISSED
Bench ID : 266175
Transcriber : NANDY

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

ASSISGNED

**FMA 322 of 2021
with
CAN 1 of 2021
CAN 2 of 2021**

**Lal Mohan Paik
Vs.**

The State of West Bengal & Ors.

Mr. Sayantan Adhya, Advocate

.....for the Appellant

Mr. Pinaki Dhole, Advocate

Ms. Kakali Samajpati, Advocate

.....for the Respondent/State

1. The present appeal arises out of a judgment passed by the Hon'ble Single Bench dismissing the petitioner's writ-petition wherein a claim was made for absorption/regularization of his service.
2. The claim is founded on the facts that he had been employed as a part-time sweeper from February 2009 to February 2012. The petitioner asserted that the respondents continued to take work from the petitioner beyond the period of one year, at a fixed monthly remuneration which, as per his case, continued for sometime.
3. The said claim, however, is disputed by the employer who has taken a stand before the writ-court that after May 2013 the petitioner has never to be seen in the Court premises where he claims to have served.
4. Be that as it may, even if the writ-petitioner/appellant had worked beyond May 2013, such

work would not have entitled him for absorption/regularization in view of the settled legal position in terms of the judgment delivered by the Apex Court in the case of ***Secretary, State of Karnataka & Ors. Vs. Umadevi (3)*** reported in ***(2006) 4 SCC 1***.

5. It is not the petitioner's case that he is covered by the exceptions carved out in paragraph 53 of the judgment in the case of Umadevi (supra) so as to entitle him to consideration for absorption/regularization in a one-time exercise to be undertaken by the Government. Petitioner's claim for absorption/regularization has thus rightly been rejected by the Hon'ble Single Judge.
6. In view of the facts and circumstances noted above and the settled law in this regard, we find no reason to interfere with the decision of the Single Bench passed on the writ-petition.
7. Therefore, the mandamus appeal being **FMA 322 of 2021** and the connected applications being **CAN 1 of 2021** and **CAN 2 of 2021** are **dismissed**.
8. No order as to costs.

(Harish Tandon, J.)

(Madhuresh Prasad, J.)

