

J U D G E M E N T

The instant application has been filed praying for the following reliefs :

7(a) An order be passed directing the Respondents that an order be issued in favour of the applicant that he is entitled to be absorbed in regular establishment;

7(b) Issuance of any other order or orders as the Hon'ble Tribunal deems fit and proper.

2. As per the applicant, he was engaged as work-charged night guard under trans Damodar Drainage Sub-Division, Howrah under the work-charged establishment vide order dated 20-11-1995 (Annexure-A). As per the applicant, till date he is working in the same capacity. The applicant has submitted a representation on 25-09-2012 to the Executive Engineer, Howrah praying for transfer to a post of Khalashi as he was suffering from eye-sight problem. Subsequently he submitted another representation praying for transfer him from work-charged establishment to regular establishment on 26-09-2014 but, nothing has been done. Being aggrieved with, he has filed the instant application. As per the applicant, in the mean time vide Memo dated 08-07-2004 and 19-11-2009, some persons were absorbed in the regular establishment. Therefore he is also entitled to be absorbed in the regular establishment.

3. Though no reply has been filed by the respondents. However the Counsel for the respondent has submitted that the applicant is not entitled to absorb after the case of Umadevi, who were not engaged against any sanction post of regular establishment. As the applicant is admittedly a work-charged

night guard under work-charged establishment, therefore as a matter of right, he cannot claim for absorption after the decision of Umadevi.

4. We have heard both the parties and perused the records. It is noted that the applicant is admittedly work-charged night guard who is working since 1995. However he made his first representation dated 20-10-2009, whereby he has prayed for the post of Khalashi in place of night guard to look after his family and in his subsequent representation he has simply asked to put him under regular establishment in place of work-charged establishment. Therefore he has not even made any representation before the authority for his absorption. Admittedly he is a work-charged employee, who was not appointed against the sanctioned regular vacancy of the regular establishment, therefore he has no right to claim such posting after the Hon'ble Apex Court decision of Umadevi. Thus we do not find any reason to entertain the application.

5. Accordingly the OA is dismissed with the above observations being devoid of merit with no order as to cost.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA (SEN)
MEMBER (J)

