

(2001) 04 JH CK 0001

Jharkhand High Court

Case No: CWJC No"s. 2869, 2870 and 2898 of 1999 (R)

Motai Sundi, Chandi Charan
Pradhan, Ashok Kumar Ghatak

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision: April 3, 2001

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Advocate: V. Shivnath, M.M. Sharma, M.K. Chaturvedi and Lakhan Sharma, for the Appellant; R.K. Merathia, Shailesh, M.S. Anwar and Ruby Parween, for the Respondent

Final Decision: Allowed

Judgement

M.Y. Eqbal, J.

In all these writ applications the petitioners have claimed regularisation of their services. Since the facts and law involved in these writ applications are same, these writ applications are disposed of by this common order.

2. Petitioners of CWJC Nos. 2869/99R and 2870/99R have been working since 18.3.1982 and 20.4.1982 respectively on the post of Chowkidar and Munshi. Petitioner of CWJC No. 2898/99R has been working as Clerk-cum-Typist since 1.8.1984. Petitioner"s case is that the government issued a circular dated 18.6.1993 whereby it was decided to regularise the services of all the daily wages employees who were appointed prior to 1.8.1985. In pursuance of that circular respondent No. 3 Principal Conservator of Forest issued necessary direction for sending the list of all those daily wages employees who were appointed prior to 1.8.1985. Respondent No. 4, Chief Conservator of Forest, accordingly sent the names of all these petitioners to respondent No. 3 for taking necessary steps for regularisation of their services. The names of these petitioners are found in the list annexed with the writ applications. Petitioners" further case is that during the pendency of these writ applications these petitioners have been transferred in different places with a direction to the concerned authority to take necessary work from them as daily

wages employees. Petitioners accordingly reported for duty but thereafter services of the petitioners have been terminated on the ground that their services were no more required.

3. The respondents have filed their counter-affidavit but peculiar stand has been taken that since the petitioners were not appointed on daily wages basis against any sanctioned post, the question of regularisation of their services does not arise. It is further stated in the counter-affidavit that under the Government circular one has to consider whether it is necessary to fill up the sanctioned and admissible vacant post in the interest of work or not and for filling up all the posts requisite qualifications, eligibility and experience has to be observed.

4. I have heard Mr. V. Shivnath, learned counsel appearing for the petitioners and Mr. R.K. Merathia, learned G.P. 2.

5. It has not been disputed that petitioners have been working on daily wages for the last 17-18 years. It is also not in dispute that in 1993 Government took a decision to regularise the services of all the daily wages employees who were appointed prior to 1.8.1985. Acting on the said circular and under the direction of the Principal Chief Conservator of Forest a list of all those employees appointed prior to 1.8.1985 was prepared and the same was sent for taking a final decision for regularisation of the services of those employees including the petitioners. When no such decision was taken by the respondents, so far these petitioners are concerned, they have moved this Court by filing the instant writ applications. It is also not in dispute that during the pendency of these writ applications petitioners have been transferred in different places and in the order of transfer it was mentioned that these petitioners cannot be removed from services as because they have been working since before 1.8.1985. Notwithstanding the circular and the direction of the concerned authority the respondents issued order of termination during the pendency of these writ applications and terminated their services on the ground that there is no work in the department and the petitioners cannot be retained in service without any work.

6. At the very outset, I must hold that the impugned order of termination of the services of the petitioners in the manner issued by the respondents cannot be sustained in law. So for regularisation of their services is concerned Mr. R.K. Merathia. G.P. 2 has submitted that at best respondents may be directed to frame scheme and to lay down criteria for regularisation of services of all those employees, I do not find much force in the submission of the learned counts. The Government by issuing circular in the year 1993 have already taken decision to consider and regularise the services of all those employees who have been appointed prior to 1.8.1985.

7. Having regard to the facts of the case and the law laid down by the Supreme Court recently in the case of [Gujarat Agricultural University Vs. Rathod Labhu Bechar and Others](#), the respondents are bound to consider the case of regularisation of

services of these writ petitioners and take decision in accordance with law.

8. For the reasons aforesaid, these writ applications are allowed and the respondents are directed to consider the case of these petitioners for regularisation of their services and pass reasoned order within two months from the date of receipt/production of copy of this order.

9. Application allowed.