

(2012) 12 JH CK 0047

Jharkhand High Court

Case No: L.P.A No. 481 of 2012 and I.A. No. 3531 of 2012

Seikh Jabir Ansari and Others

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: Dec. 5, 2012

Hon'ble Judges: Prakash Tatia, C.J; Jaya Roy, J

Bench: Division Bench

Advocate: R. Krishna and D.K. Dubey, for the Appellant; A.K. Pandey and Mr. Prabhakar Kumar, for the Respondent

Final Decision: Dismissed

Judgement

1. All three appeals are being decided by taking into consideration the facts of L.P.A No. 481/2012 as the facts of all appeals are similar. An order was issued by letter No. 420 dated 22nd March, 2003, directing to remove 39 plus 8 employees, who were not given regular appointment, but were working. The said communication dated 22nd March, 2003 was challenged by filing writ petition being W. P (S) No. 2021/2003. In the said writ petition, an interim order was passed, staying the operation of letter No. 420 dated 22.3.2003. By virtue of this interim order, it is stated by the appellants, they, who were not party to W. P (S) No. 2021/2003, also were not removed from service. However, the writ petition, W. P (S) No. 2021/2003, was dismissed, vide judgment dated 22nd August, 2006. The said judgment dated 22nd August, 2006 was challenged in L.P.A No. 429/2006. The said L.P.A was dismissed on 20.3.2009. Against dismissal of writ petition and L.P.A. S.L.P No. 15840/2009 was preferred before the Supreme Court and that too was dismissed on 13th April, 2011. The petitioners-appellants approached this Court in the year 2006, challenging the same order, i.e. letter No. 420 dated 22nd March, 2003. Learned counsel for the appellants submits that a number of issues had not been raised by the petitioners of W. P (S) No. 2021/2003 and the present writ petitioners continued in service for a longer period and therefore, subsequently they cannot be removed

from service. It is also submitted that in view of the judgment rendered in the case reported in Secretary, State of Karnataka and Others Vs. Umadevi and Others, the appellants' service are required to be regularized and learned Single Judge has committed serious error of law by misunderstanding the law laid down in the case of Umadevi (3) & Ors..

2. We are of the considered opinion that the appellants did not choose to challenge the said letter No. 420 dated 22.3.2003 till 2006. The appellants enjoyed the benefit of the interim order passed by this Court in W. P (S) No. 2021/2003 and by virtue of interim order passed in others' case, the appellants continued in service. Those other persons, i.e. petitioners of W. P (S) No. 2012/2003, admittedly lost the battle upto Supreme Court and therefore, they are no more in service. The appellants, who are the beneficiaries of the interim order passed by this Court in W.P (S) No. 2012/2003, in which they were not party, cannot turn around and say that they have different facts and grounds to challenge the order, validity of which has been upheld in earlier round of litigation initiated by other persons and because of upholding of the letter No. 420 dated 22.3.2003, the petitioners of W. P (S) No. 2021/2003 have already been removed from service. The appellants' case is squarely covered even by the judgment of the case of Umadevi (3) & Ors., as the petitioners' case is not that they are in service without there being any interim order of the Court. In view of the above reasons, apart from the reasons given by the learned Single Judge, and for the reason that the appellants continued in service by virtue of the interim order passed in W. P (S) No. 2021/2003, they are not entitled to any relief after dismissal of the said writ petition, W.P (S) No. 021/2003. Therefore, there is no merit in these appeals, which are accordingly dismissed. The stay petition is also dismissed.