

Company: Sol Infotech Pvt. Ltd. **Website:** www.courtkutchehry.com

Printed For:

Date: 03/11/2025

(2012) 3 JCR 9

Jharkhand High Court

Case No: Cont. (C) Case No. 506 of 2011

Gyanendra Mandal and

Others

APPELLANT

Vs

Union of India and

Others

RESPONDENT

Date of Decision: May 8, 2012

Citation: (2012) 3 JCR 9

Hon'ble Judges: Prakash Tatia, C.J; Aparesh Kumar Singh, J

Bench: Division Bench

Advocate: M.M. Pal, L. Mukherjee and R. Pandey, for the Appellant; M. Khan, ASGI, for the

Respondent

Final Decision: Dismissed

Judgement

- 1. Heard learned counsel for the parties. This contempt petition has been filed as, according to the petitioners, the order dated 27th January, 2009 passed in W.P.(S) No. 4451 of 2008 has not been complied with.
- 2. This Court on 7th February. 2012 gave further opportunity to the respondents to explain the situation in which the benefit, if any, was available to the petitioners by virtue of the order dated 27th January, 2009, has not been given to the writ petitioners. A supplementary affidavit has been filed by the respondents on 26th April, 2012.
- 3. Learned counsel for the petitioners submitted that the Division Bench of this Court clearly directed the Union of India to give preference in the event the Union of India needs some daily wages employees for doing work, including extra departmental work. It is submitted that the respondents have sufficient post and have also sufficient work and, therefore, published advertisement Annexure-3 dated 19th August, 2010, inviting applications for giving appointment on the extra departmental work post. It is submitted that the Division Bench of this Court clearly directed the Union of India to give preference to the writ petitioners but the writ petitioners had not been given any preference and,

therefore, could not get any appointment.

- 4. Learned counsel for the Union of India submitted that the petitioners were working as casual labourer and this Court directed the Union of India to give preference in appointment as daily wage employee only to those petitioners who rendered services for more than ten years. It is submitted that the respondents have not given any appointment to any one as daily wage employee. It is also submitted that the order of this Court is not to give preference in the matter of giving appointment on the permanent post of Extra Department Agent. It is submitted that no daily wage employees are being engaged by the respondents for any purpose as well as for the extra departmental work.
- 5. Learned counsel for the petitioners strongly refuted the contention of the learned counsel for the Union of India by stating that the rule of the appointment itself provides that the daily wage employees as well as even part time daily wages employees will be entitled to be given preference in the matter of appointment on extra departmental work post.
- 6. We have considered the submissions of the learned counsel for the parties and perused the order dated 27th January, 2009 passed in W.P.(S) No. 4451 of 2008. It is clear from the fact which is not in dispute that when the writ petition No. 4451 of 2008 was decided at that time the petitioners were not in service. It is clear from the order that Division Bench has held that working of the petitioners as daily wages employees do not confer any right to employment. Then it has been specifically held that "the question giving temporary status or regularizing their service does not arise". Thereafter, it has been held that in case the department will be in need of the work of daily wage employees then they be given preference.
- 7. So far daily wage employees are concerned, the department has taken stand that there is no need of daily wage employees to the department. It is also admitted case that department did not proceed to give any work to any daily wages employees for extra departmental work. The rule only provides that in case there is any person working as a daily wage employee or part time daily worker then he can be given preference in the appointment on the post which are meant for extra departmental work. The petitioners are since not in job and their status was of the daily wage employee and if, the respondents would have been in need of work from the daily wages then only these persons could have been given any benefit of the order. In view of the above reason, we do not find any merit in this petition. The contempt petition is, accordingly, dismissed.