

Gyanendra Mandal and Others Vs Union of India and Others

Court: Jharkhand High Court

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.