

(2013) 09 JH CK 0046

Jharkhand High Court

Case No: Writ Petition (S) No. 3133 of 2011

Nirmala Devi

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Sept. 26, 2013

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: Sresth Gautam, for the Appellant;

Final Decision: Disposed Off

Judgement

Aparesh Kumar Singh, J.

Heard counsel for the parties. Petitioner herein has approached this Court for regularization of her services on the post of Ladies Jail Warden on the ground that she has been working as such from the year 1996 on daily wages on such post. She has also made a prayer for directing the respondents to allow her to continue on the said work. The petitioner, as per her own admission was engaged on daily wages at Tenughat Jail vide letter no. 596 dated 8.2.1996.

2. On the other hand the respondents have taken stand that the engagement of the petitioner was purely on temporary basis in the jail with condition that she may be removed any time. It is however stated in the supplementary counter affidavit filed by the respondents that petitioner has been removed from the engagement on daily wages basis on 1.7.2010 itself. However, it is also stated in the said supplementary counter affidavit by the respondents that there are approximately 312 daily wagers working in different categories in respective prisons in the State of Jharkhand. List of such persons working in different categories of post of daily wages are also enclosed as Annexure-B series to the said affidavit. It is also stated by learned counsel for the respondents that framing of rules for appointment of different categories of posts are in final process and, any decision can only be taken after the formulation of such scheme.

3. The contention of the petitioner is that there are still vacant posts available in the prisons in the State of Jharkhand and the respondents are otherwise also obliged to carry out the mandate as per the ratio laid down by the Constitution Bench Judgment of the Hon"ble Supreme Court passed in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, and frame a scheme for regularization of such daily wagers who have continued for more than 10 years.

4. Be that as it may, having heard counsel for the parties, on the fact which has been disclosed in the pleadings it is apparent that engagement of the petitioner was on daily wages basis. In such circumstances, any direction to regularize the services of the petitioner at this stage cannot be issued in the absence of any scheme framed by the respondent-State. However, it also appears that the Respondent-State has engaged more than 300 persons in daily wages in the prisons of the State of Jharkhand for different length of time. In such circumstances, petitioner has relied upon the judgment of the learned Single Judge of this Court in the case of Ramesh Mahto Vrs. The State of Jharkhand & others passed in W.P.S. No. 5924 of 2003 dated 31.7.2012 wherein it was observed that the State of Jharkhand cannot escape from the legal obligation to come out with one time statutory scheme as directed by Apex Court in the case of State of Karnataka & others Vrs. Uma Devi & others(supra) and also in the case of State of Karnataka and Others Vs. M.L. Kesari and Others,

5. In such circumstances, the writ petition is disposed of with an observation that as and when scheme is framed by the State of Jharkhand for consideration of the case for regularization of such daily wages employee on fulfilling requisite conditions laid down therein, petitioner can stake claim for her regularization in services under the respondent-State. The respondents also based upon any such scheme framed would consider the case of the petitioner as per the conditions contained in the said scheme and also taking into account all other such similarly placed candidates. The writ petition is disposed of in aforesaid terms.