

(2006) 11 JH CK 0029
Jharkhand High Court
Case No: None

Bhuneshwar Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision: Nov. 20, 2006

Citation: (2007) 2 JCR 169

Hon'ble Judges: Permod Kohli, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Permod Kohli, J.

Petitioner is seeking a direction for quashing the notification dated 29th July, 2005 as contained in Memo No. 971 issued by the respondent No. 4, whereunder applications have been invited from such of the Class IV and Class III employees, who were in service before 1.8.1985 and had completed 240 days of continuous engagement for consideration for their regularization. Allegedly, petitioner was in service/engagement as a daily rated worker against the vacant sanctioned post with effect from 10th November, 1984 to 23rd September, 1988. It is stated that he served during this period continuously without any break and is entitled to be considered for regularisation in terms of the judgment of the Apex Court reported in the case of [Secretary, State of Karnataka and Others Vs. Umadevi and Others](#) .

2. The issue regarding right of regularisation has been finally set at rest by the Hon"ble Apex Court in the case of Secretary. State of Karnataka and Ors. (supra). Relevant observations of the Apex Court are contained in Para-53 of the judgment, which deals with the case of the petitioner. The said paragraph is noted hereunder:

53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayananappa, R.N. Nanjundappa and B.N. Nagarajan and referred to in para 15 above, of duly qualified

persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the Courts or of Tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the Courts or of Tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub-judice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.

3. According to petitioner's own case, he served from 10th November, 1984 to 23rd September, 1988. therefore, it is less than four years. He is out of service/engagement since 1988. In terms of the directions of the Apex Court, he has no right of consideration as a matter of fact no person, who served less than ten years has any right of consideration for regularisation. There is no merit in this writ petition, which is, accordingly, dismissed. Petition dismissed.