

## Jalaj Kumar Vs State of Jharkhand and Others

**Court:** Jharkhand High Court

**Date of Decision:** Sept. 10, 2003

**Acts Referred:** Constitution of India, 1950 " Article 226

**Citation:** (2003) 4 JCR 448

**Hon'ble Judges:** S.J. Mukhopadhaya, J

**Bench:** Single Bench

**Advocate:** A. Allam, Subodh Kr. Jha and B.K. Jha, for the Appellant; Anil Kumar Sinha AG and Ritu Kumar, for the Respondent

**Final Decision:** Allowed

### Judgement

S.J. Mukhopadhaya, J.

This writ petition has been preferred by petitioner for issuance of an appropriate writ/writ(s), order/order(s) in the

nature of mandamus directing and commanding the respondents to pay the arrears of salary, which is due for the month of February, 2002 and

from May, 2002 to up till date.

2. According to petitioner, a Legal Aid Committee was constituted for the High Court under the Bihar State Weaker Section Legal Aid Act, 1983

(Act 1983 for short). The Government of Bihar from its Law (Legal Aid) Department created ministerial posts of Lower Division Clerk, Typist

and the posts of Peon vide Memo No. 30 LA/Patna, dated 26th February, 1983. He was appointed as one of the typists by Government of Bihar

Memo No. 129/L, dated 24th May, 1983 in the then scale of Rs. 580-860/- for the Ranchi Bench of the Patna High Court Legal Aid Committee.

He joined the post of typist on 16th May, 1983 which was reported by the Executive Member, Legal Aid Committee, Ranchi Bench of the Patna

High Court vide letter dated 28th June, 1983 and since then he is working, even after constitution of Legal Services Committee for the Ranchi

Bench of the Patna High Court and thereafter the Legal Services Committee of High Court of Jharkhand constituted under Legal Services

Authorities Act, 1987 (Act 1987 for short).

Further, according to petitioner, his scale of pay was revised from time to time as revised in favour of Government employees and last revision of

pay was made w.e.f. 1st January, 1996 in the scale of Rs. 4000-6000/- by an office order No. 1, dated 24th October, 2000 issued by the Legal

Services Committee of Ranchi Bench of the Patna High Court under the signature of the then Registrar, Ranchi Bench of the Patna High Court.

After re-organisation of the State the petitioner continued to receive salary but he was not paid salary for the month of February, 2002 and

thereafter since May, 2002 onwards, after a new Legal Services Committee was constituted for the High Court of Jharkhand, Ranchi, though he is

still in service and is working.

It is stated that the High Court of Jharkhand at Ranchi has been established since 15th November, 2000 and the then Ranchi Bench of the Patna

High Court has been made the main seat of the High Court of Jharkhand.

3. Similar case fell for consideration before a Bench of this Court in the case of Raj Nandan Prasad Vs. State of Jharkhand and Others, The said

case was filed by one of the Peon of the Legal Services Committee, who was similarly appointed for the Legal Aid Committee of the Ranchi

Bench of the Patna High Court in the year 1983. He also continued as Peon after constitution of Legal Services Committee of Ranchi Bench of the

Patna High Court as was constituted under the Act, 1987. The said petitioner also received salary upto January, 2002 but salary was not paid

since February, 2002 onwards, after constitution of a new Legal Services Committee for the High Court of Jharkhand, Ranchi, though he

continued to work. On the said case, this Court vide its decision rendered today i.e. 10th September, 2003. made the following observations and

directions :

In the circumstances, with regard to the employees and staff of an office/organisation for which no provision has been made under any Act, law or

the Bihar Reorganisation Act, 2000, after re-organisation of the State and creation of the State of Jharkhand or establishment of the High Court of

Jharkhand, an appropriate decision is to be taken by the successor authority for retention/absorption of the old employees instead of appointing

new persons on the newly created posts of the successor organisation.

In the aforesaid background, the respondents have no other option but to take steps for retention/absorption of petitioner and other similarly

situated employees of the Legal Aid Committee of the Ranchi Bench of the Patna High Court, who are still continuing.

If there is no equivalent posts available, the State Government should either create posts for their retention/ absorption or may be accommodated

against a higher posts till they attain the age of superannuation/remain in service.

The respondents are liable to pay salary to such employees, who were in the services of the Legal Services Committee of Ranchi Bench of Patna

High Court and are still continuing, such as petitioner.

So far as petitioner is concerned, he having appointed as Peon and a post of Peon having been created for the Legal Services Committee of the

Jharkhand High Court, there should not be any difficulty for the respondents to absorb him.

The competent authority will issue appropriate order absorption of petitioner and similarly situated persons, within a period of three months from

the date of receipt/production of a copy of this order.

So far as payment of salary is concerned, the respondents will pay the dues of the month of February, 2002 onwards including current salary,

within a period of two months from the date of receipt/production of a copy of this order.

The petitioner being similarly situated, this case is also disposed of with same and similar direction as given in the case of Raj Nandan Prasad

(supra). If no post of typist has been created, the respondents may take work of a clerk-cum-typist from him and pay salary against the post of

Assistant, who has been also asked to perform the duty of a clerk. In alternative, the respondents may create a post of typist temporarily to

accommodate the petitioner.

4. The writ petition is allowed, with the aforesaid observations/directions.