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**(2014) 4 AJR 663**

**Jharkhand High Court**

**Case No:** W.P.(S) No. 2946 of 2002

Munshi Yadav — APPELLANT

Vs

The State of Jharkhand — RESPONDENT

**Date of Decision:** Oct. 17, 2014

**Citation:** (2014) 4 AJR 663

**Hon'ble Judges:** Aparesh Kumar Singh, J

**Bench:** Single Bench

**Advocate:** Jay Prakash Pandey, Advocate for the Appellant

**Judgement**

Aparesh Kumar Singh, J.
Heard counsel for the parties.

2. It is the claim of the petitioner that he has been working on daily wage basis since 1983 under the Divisional Forest Officer, Koderma and

persons who were working since 1985 as daily wagers have been regularized. Reliance has been placed upon the certificate issued by the Range

Officer, Koderma to the effect that he was engaged on daily wage in the year 1983 and had been working satisfactorily. Reliance has also been

placed on Annexure-2 dated 31.8.2001 issued by the Divisional Forest Officer, Koderma addressed to the Deputy Commissioner, Koderma

making a reference to a vacant post of "Khansama" in the division and that the petitioner has been working on daily wage since 1.1.1983 as per

the requirement of work and that he is accomplished in the cooking job. It is the case of the petitioner that the D.F.O., Koderma made a

recommendation for his appointment as "Khansama" as he had been doing work for the last 18 years on daily wage. A transfer certificate has been

annexed showing that he is Class VII pass and his date of birth is 25.2.1970. According to the petitioner by the judgment passed in one or the

other case earlier, some persons have been regularized in service.

3. Learned counsel for the respondent-State has submitted that the petitioner was never appointed as daily wage (employee against any vacant

sanctioned post. He was only engaged as daily wager and he did not go under any screening neither any advertisement were published nor the

names were asked from the Employment Exchange. The case of the regularization of persons said to be junior to petitioner is different. Reference

has been made to the letter dated 7.4.2005 issued by the Principal Chief Conservator of Forest, Jharkhand and letter dated 2.4.2005 issued by

the Department of Forest and Environment, Government of Jharkhand that necessary steps for recruitment of Class IV post including the post of

Forest Guards would be undertaken in near future. However, the claim of the petitioner has been opposed.

4. Petitioner has relied upon an unreported judgment passed in W.P.S. No. 3505 of 2002 dated 23.9.2003 where the Principal Chief Conservator

of Forest was directed to consider the case of the said petitioner for regularization since he had made a claim that he had been working for over 20

years.

5. Having heard counsel for the parties and having considered the materials on record, the claim of the petitioner for regularization in service of the

State on the basis of his engagement as daily wagers since 1983, which is said to have continued thereafter for a number of years is however

dependent upon any scheme for regularization framed by the State Government to consider such cases. In view of the judgment rendered by the

Constitution Bench of the Hon''ble Supreme Court in the case of State of Karnataka & others Vrs. Uma Devi & others reported in (2006) 4 SCC

01, in case of such irregular appointment under daily wages or temporary appointment a direction was issued that the State Government should

frame a scheme for consideration of such persons who have remained in such engagement for a period more than 10 years without any protection

of the order passed by any Court. Learned counsel for the parties are not in a position to say whether any scheme has been formulated or not.

6. Be that as it may, if the State Government comes out with a scheme of regularization and petitioner is found to be fulfilling the conditions laid

down therein on the basis of his claim that he had continued as daily wager since 1983 and that he fulfilled other eligibility criteria, respondents

would consider his claim for such regularization on any sanctioned vacant Class-IV pest under the respondent-department.

7. With the aforesaid observation, the writ petition is disposed of.