
(2001) 06 PAT CK 0016
In the Patna High Court
Case No : C.W.J.C. No. 2844 of 2001

Anil Kumar Vishwakarma and Others	Vs	APPELLANT
State of Bihar and Others		RESPONDENT

Date of Decision : 26-06-2001

Acts Referred:

Citation : (2001) 3 PLJR 316

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Advocate : Sadanand Jha, Chakrapani, Tej Bahadur Roy, in C.W.J.C. Nos. 2842, 2844, 2862, 2887 and 2888 of 2001, S.S. Asghar Hussain, Purushottam Kumar Jha, in C.W.J.C. No. 2788 of 2001, Mihir Kumar Jha, Sufiyan, in C.W.J.C. No. 2839 of 2001, Prabhakar Tekriwal, Sashidhar Jha, in C.W.J.C. Nos. 2893 and 2963 of 2001, Umesh Kumar Singh and Shambhu Sharan Singh, in C.W.J.C. No. 3226 of 2001, for the Appellant; Sanjay Singh, Jitendra Shankar Singh and Shailendra Kumar Singh, for the Respondent

Final Decision : Dismissed

Judgement

Aftab Alam, J.—These cases practically stand concluded by the earlier order, dated 8.4.2001. By that order though it was clearly held that the Petitioners removal from service on expiry of the contract period was not liable to be faulted, the writ petitions were not disposed of and were directed to be again placed before the court after some time because the court wanted to be fully satisfied that the; State Government in fact acted and took steps to give effect to the stand taken by it in course of hearing of the writ petitions before the court.

2. The Petitioners in all the ten writ petitions were engaged, on contract basis, for the period of the World Bank aided project for strengthening and developing the Polytechnic Vocational education in this State. The contracts of service of the Petitioners was extended twice on annual basis. After the project period was over and the financial aid stopped coming from the World Bank the Government decided not to renew any further the Petitioners contracts of service and

consequently they were removed from service on the expiry of the contract 3. The Petitioners came in batched in ten writ petitions, seeking certain relief from this Court. On hearing counsel appearing for the Petitioners and SC IX appearing for the State in all the petitions, this Court passed a long detailed order on 18.4.2001. In that order the court held and found that it was impossible to fault the Respondent authorities for terminating the services of the Petitioners on the expiry of the contract.

4. It was further noted in that order that the counsel for the Petitioners, realising the legal position, did not try to assail the orders terminating the services of the Petitioners nor did they claim the relief of reinstatement/regularisation for the Petitioners. But it was simply asked that the Petitioners should be allowed to continue till the concerned authorities were able to find the Petitioners replacements by making fresh recruitment.

5. To this the stand of the State Government was that it was compelled to remove the Petitioners mainly due to financial constraints and hence, there was no question of making any fresh recruitment as replacements of the Petitioners. It, was stated that though the Government was committed to sustain the development achieved by the projects and to further develop the institution of Polytechnics in this State, it intended to fill-up all the. required posts, on a minimum-need basis, by posting suitable persons from within the Government who might be surplus in their own departments. A separate supplementary counter affidavit was filed making these averments which were taken note of in the, order dated 18.4.2001.

6. Having regard to the stand of the Government this Court left the concerned authorities free to take suitable steps for the implementation of the proposal as stated before this Court on behalf of the State and directed that these cases be listed again after sometime when the State counsel should apprise the court that the arrangements suggested on behalf of the Government were duly implemented.

7. On 22.6.2001 when these cases were listed again a supplementary counter affidavit was filed which is affirmed by the Joint Secretary in the department of Science and Technology. In this affidavit it is stated that in order to ensure the smooth running of courses in the different Polytechnics of the State and to ensure that no prejudice was caused to the students was made by a committee under the chairmanship of the Secretary of the department. The Committee's assessment was further reviewed by the Minister in consultation with the Principals of the different Polytechnics. Following the assessment of the required staff strength teachers of different grades and some non-teaching staff have been posted at the required places by transferring surplus staff from one place to another. In the counter affidavit it is stated that with the placement of these teachers the availability of effective teaching hands in these institutions would be somewhat better than the position prevalent during the employment of teachers on contract basis.

8. In one or two writ petitions, a rejoinder affidavit has been filed on behalf of the Petitioners. Dr. Sadanand Jha and Mr. S.S. Asghar Hussain, Sr. Advocates appearing for the Petitioners in some of these writ petitions sought to assail the action of the Respondent authorities in making transfer of teaching and non-teaching staff from one place to another.

9. It was stated that from the different transfer orders appended to the State's affidavit filed today, it appears that the transfer were made under threat and coercion. It was further submitted that even after those transfers the number of staff was not in accordance with the A.I.C.T.E. norms and guidelines.

10. I am not impressed by either of the two submissions. An order transferring a Government employee from one place to another is not open to challenge by the Petitioners. As regards the A.I.C.T.E. norms and guidelines on staffing pattern that issue does not arise in this case.

11. The Respondent authorities had stated before this Court that the government would not allow the teaching in the Polytechnics to suffer due to the removal of the Petitioners and would make alternate arrangement by transferring government employees from departments/institutions where there may be surplus to the different Polytechnics. From the affidavit filed on 22.6.2001 it appears that the government has duly implemented its proposal as stated before this Court and the Petitioners at this stage cannot be allowed to enlarge the scope of this case by raising the issue of A.I.C.T.E. norms and guidelines. That will be a matter between the A.I.C.T.E. and the State Government.

12. I am, therefore, satisfied that no relief as prayed for by the Petitioners can be granted by this Court.

13. In case, however, in future the Government makes appointments for those Polytechnics, the Petitioners will be surely entitled to relaxation in age to the extent of their service period and for some reasonable weightage for their past satisfactory services.

14. Before closing the records of this case this Court must notice another grievance of the Petitioners that they have not been paid their salary even for the period their contracts were subsisting and when they actually work. Mr. SC IX took a reasonable stand in respect of this grievance and stated that there is no reason why the Petitioners salary for the period they actually worked may not be paid to them. The Respondent authorities are accordingly directed to pay to each of the Petitioners and others similarly situated all the admitted dues within one month from today.

15. In the result, all these writ petitions are dismissed, subject however to the observations and directions made above.