

(2013) 07 PAT CK 0011
In the Patna High Court
Case No : CWJC No. 14326 of 2007

Ashok Kumar and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 4 PLJR 350

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Advocate : Gajendra Nath Ojha, for the Appellant; Mithilesh Kr. Singh, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Kumar, J.—Heard learned counsel for petitioners, learned A.C. to Standing Counsel No. 17, who appears on behalf of respondent Nos. 1 & 2 and Sri Mithilesh Kumar Singh, learned counsel appearing on behalf of respondent No. 3/Deputy Development Commissioner-cum-Chief Executive Officer, District Board, Aurangabad. Four petitioners, while invoking extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India, have prayed for quashing of an Office Order contained in Memo No. 253 dated 11.9.1997, as contained in Annexure-"1" to the writ petition, whereby; the services of petitioners were dispensed with/terminated with immediate effect.

2. Learned counsel for petitioners submits that petitioners were daily-wages workers in the District Board, Aurangabad and without any rhyme and reason, their services were dispensed with, vide Annexure-"1" to the writ petition. Being aggrieved with the order of termination, petitioners approached this Court by filing writ petition i.e. C.W.J.C. Nos. 7769 of 1997 & 9770 of 1997 (Annexure-"3" to the writ petition). The writ petition was disposed of and direction was given to the Zila Parishad to examine the requirement of their services and frame scheme for considering the case of the petitioners for regularization of their services.

Even after the order passed by this Court, no step was taken by the authority concerned, then petitioners filed a contempt petition, vide M.J.C. No. 1813 of 1999. In the contempt petition, show cause was filed on behalf of Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Aurangabad and in view of statement made in paragraph No. 6 of the show cause, learned counsel for the petitioners sought permission to withdraw the contempt petition, which was allowed with an observation that opposite parties shall comply with their assurance given in the said paragraph of the show cause. Learned counsel for petitioners submits that even though the contempt petition was disposed of, in view of the statement made in the show cause, the District Board, Aurangabad has neither taken any decision for regularizing the services of petitioners nor any scheme has been framed. On aforesaid grounds, he makes a prayer for quashing of Annexure-T to the writ petition.

3. Sri Mithilesh Kumar Singh, learned counsel appearing on behalf of respondent No. 3/District Board, Aurangabad submits that in paragraph No. 6 of the show cause, which was filed in M.J.C. No. 1813 of 1999, a specific stand was taken that whenever the financial position of Zila Parishad will become strong then their cases (petitioners) for regularization will be considered. He further submits that financial position of the Zila Parishad is still not appropriate. Virtually, the regular employees of the Zila Parishad are not being paid their due salary since several months. This statement is made in paragraph No. 13 of the counter affidavit.

4. Be that as it may, once the petitioners had approached this Court with a prayer to quash Annexure-T to the writ petition and no relief was granted to this effect, at subsequent stage, petitioners may not be entitled to raise the same issue. Whether the case of regularization of the petitioners can be considered by respondents or not, that is up to the authority concerned. Moreover, the services of petitioners were dispensed with long back in the year 1997 and as such, no direction can be issued by this Court in the present writ petition. The writ petition stands dismissed.