

(2022) 08 JH CK 0023

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4822 Of 2018, IA No. 7216 Of 2022

Baleshwar Prasad Verma

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 10-08-2022

Acts Referred:

Citation : (2022) 08 JH CK 0023

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Saurav Arun, Deepak Kumar Dubey, Uttam Kumar Das

Judgement

Anubha Rawat Choudhary, J

1. Learned counsel for the petitioner has advanced his arguments at length. He has submitted that during the pendency of this writ petition, the services of the petitioner who was working as computer operator has been terminated and the petitioner has been directed to handover the charge to one Sushant Kumar Sinha, another computer operator said to have been appointed through JAP-IT. He has referred to the order dated 28.12.2018 (Annexure-21) and submits that same is under challenge in I.A. No. 7216 of 2022. Upon perusal of this order, it appears that letters dated 06.11.2018 and 24.11.2018 were issued by the Joint Transport Commissioner informing that the services of the petitioner were being taken as computer operator without obtaining any order from the regional office.

2. The counsel for the petitioner has relied upon a judgment passed by the Hon'ble Supreme Court reported in (2013) 14 SCC 65 as well as the order passed by this court in W.P. (S) No. 4682 of 2021 disposed of on 27.07.2022 and submits that the said order passed by this court also related to computer operator.

3. Learned counsel has submitted that the petitioner is entitled for regularization irrespective of any clause in the scheme for regularization issued by the respondents vide Notification dated 13.02.2015 read with Notification dated

20.06.2019. It is not in dispute during the course of argument that there is no sanctioned post for computer operator. Learned counsel submits that requirement of computer operator being of perennial nature, it was for the respondents to get the post sanctioned and in view of the aforesaid judgment passed by the Hon'ble Supreme Court, the petitioner is entitled for regularization.

4. Upon perusal of the notification dated 13.02.2015 which is the scheme for regularization framed by the State of Jharkhand pursuant to the judgment passed by the Hon'ble Supreme Court in the case of State of Karnataka versus Uma Devi and others, it is apparent by virtue of clause 3 that the condition precedent for regularization has been stated to be that the person should have been working against sanctioned post and it has also been mentioned therein that if subsequently the post is sanctioned and the requisite qualification is obtained, then also the incumbent will not be entitled for regularization.

5. The petitioner is also submitting that the petitioner is entitled for regularization irrespective of the scheme for regularization framed by the respondents.

6. Learned counsel for the respondents is directed to seek instructions particularly from the respondent No. 2 and 3 to bringing on record the aforesaid communications which has been referred to in Annexure-21 to the interlocutory application. The affidavit should also clearly state as to whether any decision was ever taken by the Transport department in connection with appointment of computer operators on contractual basis and if so, the decision be brought on record. The recording in the impugned order reflects that the services of the petitioner was being taken without any approval from the regional office or by the competent authority. Accordingly, the affidavit should also bring on record the various decision(s) pursuant to which work of computer operator was being taken by the petitioner. If there is any decision of the transport department or any other authority to employee computer operator on contractual basis in the transport department of the state of Jharkhand, the same should be placed on record with particular reference to the petitioner.

7. The affidavit of the concerned respondents should be filed by 05.09.2022. The rejoinder, if any, should be filed by 12.09.2022.

8. Post this case on 14.09.2022.

9. Let this matter be treated as part heard.