

(2025) 11 JH CK 1973
In the Jharkhand High Court
Case No : Writ Petition (S) No.7075 Of 2017

Balmukund Prajapati

APPELLANT

Vs

State Of Jharkhand through its Principal Secretary

RESPONDENT

Date of Decision : 27-11-2025

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21

Citation : (2025) 11 JH CK 1973

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Ajit Kumar, Shekhar Prasad Gupta, Akash Ajit Kumar, Manish Kumar, Ashwini Bhushan

Final Decision : Allowed

Judgement

Deepak Roshan, J

1. The instant writ petition has been filed for the following reliefs:

i. For issuance of an appropriate writ(s)/order(s)/direction(s), or a writ in the nature of mandamus commanding upon the respondents to make payment of salary to the petitioner which has not been paid since March 2017 even when the petitioners have been working continuously.

ii. For issuance of an appropriate writ (s) / orders) / direction(s), or a writ in the nature of Certiorari, for quashing of the Memo no. 4357 dated 22.11.2017 whereby and where under a decision has been taken to terminate the services of the petitioner by giving one month notice in a most arbitrary manner even when the petitioners are Govt. employees and can be terminated only after following relevant rules of employment as the petitioner were duly appointed after due advertisement and process of law on sanctioned vacant posts.

iii. For issuance of an appropriate writ (s)/ orders)/ direction(s), or a writ in the nature of Prohibition, prohibiting the respondents to give effect to the order

contained in Memo no. 4357 dated 22.11.2017 whereby and whereunder an order has been passed to terminate the petitioners by giving one month notice as the same is wholly without jurisdiction and also is arbitrary exercise of power.

iv. During the pendency of the writ application the impugned order contained in letter dated 22.11.2017 be kept at abeyance.

v. For issuance of an appropriate writ (s) / orders) / direction(s), or a writ in the nature of Certiorari for quashing the orders dated 6/12/2017 in terms of which the petitioners have been terminated w.e.f December 2017 without following the relevant rules of employment as the petitioner were duly appointed after the due process of law on sanctioned vacant post.

vi. Pass any other order/ orders as this Hon'ble Court may deem fit & proper in the facts and circumstances of the case.

2. Learned Senior Counsel appearing for the writ petitioner has argued on the following grounds: -

a. The appointments of the petitioners were made after a proper public recruitment process involving advertisement, interview, publication of results and preparation of service book. Once the State issued appointment letters, allowed them to join, opened service books, and paid them on regular basis, a legitimate expectation arose that their employment was not contractual and continuing.

b. Such conduct violates the fundamental guarantees under Articles 14, 16, and 21 of the Constitution. The petitioners were treated unequally compared to other similarly situated employees who continued in service under the same department. Arbitrary withdrawal of employment after using their labour and skill for nearly a year offends the principle of fairness and equity. The State cannot first regularize its own mistake by making individuals scapegoats, especially when the error was purely administrative.

c. The concept of "contractual appointment" was invoked as a post-hoc excuse to deprive them of benefits and security. The nature of their work was perennial and necessary for the Department's daily functioning. Even after termination, similar work continued, but through outsourced agencies. This is a clear case of exploitation using human resources for regular work under precarious terms to avoid statutory obligations. Such practice offends the doctrine that the State must act as a model employer.

d. The petitioners were never given any opportunity to be heard before their termination from the service. The impugned Memo No. 4357 was issued after giving one month notice or enquiry which is said to be a blatant violation of the principles of natural justice.

e. The State's own subsequent communications referring to the creation of sanctioned posts and proposals for regularization of similarly placed employees unmistakably establish that the work performed by the petitioners was of a

permanent and regular in nature. The State's acknowledgment of the continuity of such posts negates the premise of contractual or temporary engagement.

3. Learned counsel for the respondents defended the action of the State and submitted that in the advertisement, it was very clear that from Serial no.10 to 18 of the resolution dated 26.12.2008, the appointment has to be made through outsource agency. It has been further submitted that though the petitioners were appointed and even service book was opened but this will not create any right of regular employment under the State Government.

Learned counsel further drew attention of this Court to the said resolution and submitted that the resolution of 2008 was with regard to the post created by the State of Bihar and the resolution which is mentioned in the advertisement was by the State of Jharkhand and that has been issued in the name of Governor.

It has been contended that admittedly the petitioners were appointed pursuant to the advertised post and the probation period of the same was three years; however he strenuously submitted that it is a trite law that any mistake if committed can be corrected, yet, he could not dispute the fact that in getting the regular appointment pursuant to the advertisement and in opening of the proper service book, the petitioners were not involved and no forgery has been committed.

Learned counsel for the respondents lastly submits that petitioners have rightly been removed from service by giving one-month notice.

4. Having heard learned counsel for the parties and after going through the documents annexed with the respective affidavits it appears that an advertisement was floated by the office of Deputy Commissioner-cum-District Magistrate, Bokaro (Social Welfare Branch) by departmental resolution no. 1736 dated 26.12.2008; whereby post no. 10 to

18 were to be filled by outsourcing (Refer-Annexure-1 of the writ application for advertisement and Annexure-A of Counter Affidavit dated 25.11.2023 for resolution no. 1736).

The petitioners applied and were declared successful on the aforementioned advertised posts. Thereafter, appointment letters were issued to the petitioners under the signature of Deputy Commissioner-cum-District Magistrate, Bokaro providing for 3 years of probation period. It further appears that after their joining, the service books of the petitioners were opened as if they were regular employees though the advertisement was for outsourcing.

This Court fails to understand that when the advertisement was for outsourcing employment; then how come the respondent authorities opened the service book of the petitioners and filled form 17 under the Jharkhand Treasury Code, 2016. These actions of the Respondents have rightly created a legitimate expectation in the mind of the petitioners that they are regular employees.

5. Further, not a single chit of paper has been brought on record by the respondent authorities to show that the petitioners were treated or worked as outsourced employees. Even otherwise, the respondent authorities by way of counter affidavit dated 27.06.2018 in paragraph 10 have clearly accepted the fact that by mistake the process for appointment was followed which was not in the line of direction given by the ministry of Jharkhand Government.

6. Admittedly, the impugned order provided for termination of the service of the petitioners by giving one month notice without giving any opportunity to defend themselves or give any explanation, is inconsistent with the principles of natural justice. In such circumstance, the respondents' action in terminating the petitioners' appointments reflects administrative arbitrariness and renunciation of responsibility in the backdrop of the admitted case that their service book was opened and form 17 under the Jharkhand Treasury Code, 2016 was duly filled up.

7. Accordingly, the impugned order dated 22.11.2017 and respective order dated 06.12.2017; whereby and whereunder a decision was taken to terminate the services of the petitioners by giving one-month notice has no legs to stand in the eye of law and accordingly, the same, are hereby, quashed and set-aside.

The concerned Respondent is directed to reinstate the petitioners forthwith. However, liberty is given to the respondents to proceed in accordance with law, if so advised.

8. As a result, the instant writ application stands allowed. Pending I.A., if any, also stands closed.