
(2007) 08 JH CK 0037
In the Jharkhand High Court

Bhola Singh and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 07-08-2007

Acts Referred:

Citation : (2007) 4 JCR 151

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ramesh Kumar Merathia, J.—Heard the parties finally.

2. The petitioners claim that they have a right to be considered for regularisation on the ground that they are working under work charged establishment continuously without any break; and. for payment of wages from March, 2002.

3. Mr. Bibhuti Pandey, learned senior counsel appearing for the petitioners submitted that the petitioners are still working under the work-charged establishment. He relied on a statement signed on 24.2.2006 (Annexure-10) by one Shri Devendra Prasad Singh, the then Executive Engineer and the Letter No. 274 dated 4.5.2007 (Annexure-11) issued by the same officer along with the statements (Annexure-12). He submitted that the said Letter No. 274 dated 4.5.2007 (Annexure-11) was in reply to the letter dated 26.4.2007 of the Deputy Secretary and the letter dated 24.4.2007 of the Chief Engineer. He further submitted that when the petitioners relied on the said documents, the respondents are saying that the said letters were issued wrongly by the said officer Shri Devendra Prasad Singh. Relying on the Full Bench judgment of this Court in Ram Prasad Singh v. State of Jharkhand 2005 (3) JCR 9 (FB) : 2005 (3) JLR 38, he submitted that petitioners should be considered for regularisation.

4. Mr. M.S. Akhtar, learned standing Counsel No. II, appearing for the respondents, on the other hand submitted that petitioners were engaged temporarily as and when required and it has been specifically stated in the

counter-affidavit that they have been removed from work charge duty from March 2002. Their employment is no longer required. Annexure-10 is simply a chart showing the names of the petitioners and their date of joining and there is nothing therein to show that they were working on the day when the said chart was signed. He further referred to Annexure-A dated 20.6.2007 which is a certificate issued by the same officer Shri Devendra Prasad Singh saying that due to pressure of work, the concerned Assistant got his signature on the said chart dated 24.2.2006 which should be treated as cancelled. He further relied on the certificate issued by Shri Prashant Deo, the then Executive Engineer to show that the petitioners were removed from work from March 2002 and thereafter they have not worked (Annexure-B). He submitted that when verification was made about the correctness of the statements made by the petitioners in the affidavits filed in this writ petition, it was found that the same were not correct and, therefore, the said certificates (Annexures-A and B) had to be annexed in support of the contention of the respondents with the affidavit dated 4.7.2007. Mr. Akhtar further relied on Annexures-B Series annexed with the said affidavit and Annexures-A, B and C Series filed with the supplementary counter-affidavit filed on 20.7.2007. He further submitted that it appears that the petitioners, in order to make out a case that they have been working till date without any break, have tried to procure Annexures-10, 11 and 12 from the said Shri Devendra Prasad Singh, the then Executive Engineer, which are incorrect and the State is not bound to act pursuant to the said letters/statement. He referred to paragraph 22 of the Full Bench judgment of Patna High Court in Chetlal Sao v. State of Bihar 1986 PLJR 149.

5. The relevant concluding portion of the Full Bench judgment of Ram Prasad Singh (supra) reads as follow:

17(i) The work-charged employees, who have completed more than five years of continuous service against one post in the work-charged establishment and otherwise eligible, have a right of consideration of their cases for taking over their services in the permanent (regular) establishment, irrespective of their dates of appointment.

But the work-charged employees working on daily wages, not holding any post, are not so entitled....

6. Under the facts and circumstances noticed above, it has to be held that the petitioners have no existing right of consideration for regularisation on the basis of the said Full Bench judgment of Ram Prasad Singh (supra). Petitioners are not in continuous service. They were removed from work charge establishment from March 2002 and thereafter they are not working. Their engagement was no more required. They were paid their dues for the period they worked. Further the aforesaid documents relied by Mr. Pandey are of no help to the petitioners. Annexure-A issued by the Executive Engineer, Devendra Prasad Singh, contradicts other documents-Annexures-10, 11 and 12 issued by him. Further Annexures-B Series to the affidavit dated 4.7.2007 and Annexures-A, B and C

Series to the affidavit filed on 20.7.2207 on behalf of the respondents clearly shows that Annexures-10, 11 and 12 are incorrect.

7. In my view, no relief can be granted to the petitioners and, accordingly, this writ petition is dismissed. No costs.