

(2008) 12 JH CK 0048
In the Jharkhand High Court

Bihar State Mineral Development Corporation Ltd. Now
Jharkhand State Mineral Development Corporation Ltd. and
Others

APPELLANT

Vs

Choudhary Ram and Others

RESPONDENT

Date of Decision : 12-12-2008

Acts Referred:

Citation : (2008) 12 JH CK 0048

Hon'ble Judges : M.Y. Eqbal, J;Jaya Roy, J

Bench : Division Bench

Judgement

M.Y. Eqbal, J.—This appeal is directed against the judgment dated 10.2.2003 passed in W.P.(S) No. 3228/2001, whereby the learned Single Judge directed the respondents to prepare a scheme for regularizing the services of the respondents-writ petitioners within a period of two months and further held that the petitioners would be entitled for their regularization in services.

2. The respondent Nos. 1 to 4 (in short petitioners-respondents) filed the aforementioned writ petition for quashing the order dated 22.4.2000 passed by the respondent No. 6, Secretary, Department of Mines and Geology, Government of Bihar now Jharkhand, by which the claim of the petitioners for their regularization in services was rejected.

3. The facts of the case lie in a narrow compass.

The petitioners-respondents were engaged on daily wages by the erstwhile company, namely, M/s. Eastern Management and Minerals Ltd. (EMM Ltd.) Koderma and the mine was being operated by the said company. However, the said company was taken over by the erstwhile State of Bihar w.e.f. 9.3.1986 pursuant to the order dated 27.8.1985 passed by the Supreme Court of India in Civil Miscellaneous Petition No. 35248-54 of 1985. The State of Bihar in turn took a decision to handover the management of the Mica mines and its mining operation to the Bihar State Mineral Development Corporation for and on behalf

of the Government of Bihar. The case of the petitioners is that they have been continuing in services on daily wages basis and their services are not being regularized. A writ petition was heard by the learned Single Judge by passing the impugned Judgment, whereby respondents were directed to prepare a scheme for regularizing the services of the petitioners and further held that the petitioners will be entitled for their regularization in services counting the period of their engagement from the date, on which the management was taken over by the State Government.

4. Mr. Anoop Kumar Mehta, learned Counsel appearing for the appellant-Bihar/Jharkhand State Mineral Development Corporation, assailed the impugned Judgment being contrary to law and is without Jurisdiction. Learned Counsel submitted that the case of daily wages employees of the erstwhile company for regularization of their services was duly considered by the Secretary cum Commissioner, Department of Mines and Geology, Government of Bihar, Patna on the representation filed by the petitioners and similarly situated persons, which was rejected holding that the claim of the petitioners to parity of pay scale and regularization is not tenable.

5. Learned Counsel then submitted that it is the respondent-State of Jharkhand, who will prepare a scheme of regularization of services and not the appellant-Corporation. According to the learned Counsel, the petitioners and other daily wages employees of the erstwhile company, who are continuing in services, are the employees of the State of Jharkhand and not the employees of the Corporation

6. Learned counsel appearing for the respondents, in course of his argument, referred Annexure 14 to the rejoinder filed in the writ petition, which is a judgment dated 13.8.2002 passed in CWJC No. 2035/94(R). Learned Counsel submitted that similar relief was claimed by some of the daily wages employees and the writ petition was allowed with a direction to the respondents to regularize the services of the petitioners.

7. Admittedly the petitioners-respondents have been working on daily wages basis continuously from 1972-1974 i.e. for about 35-36 years. The petitioners, therefore, have worked for a long time and as a matter of right, are entitled * to get the benefit at par with the regular employees. The only question raised by the appellants is that it is the State of Jharkhand, who will formulate a scheme and not the appellant-Corporation.

8. Mr. Alam, learned Counsel appearing for the State of Jharkhand, submitted that the appellant-corporation is an independent body and it is the corporation, who has to formulate a scheme as directed by the Hon"ble Single Judge in the impugned judgment.

9. After having heard the learned Counsel appearing for the parties, we are of the opinion that the impugned Judgment needs modification only to the extent that the appellant-State Mineral Development Corporation and the State of

Jharkhand shall prepare a scheme for regularization of daily wages employees, who have been working for the last 30-35 years. The Chairmen, Jharkhand State Mineral Development Corporation and the Secretary, Department of Mines and Geology, Government of Jharkhand, shall Jointly prepare a scheme for regularization of services of the petitioners and take a final decision as expeditiously as possible and preferably within four months from the date of receipt/production of a copy of this judgment.

10. The instant appeal is, therefore, disposed of with the aforesaid modification in the impugned judgment and the direction, as indicated hereinabove.

Jaya Roy, J.

11. I agree.