
(2004) 08 JH CK 0113

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3811 of 2002

Bijoy Prasad Roy and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 24-08-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 1 JCR 43

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : P.K. Verma, for the Appellant; Bharti Kumari, J.C. to G.P.-IV and Moti Gope, J.C. to G.P.-IV, for the Respondent

Final Decision : Dismissed

Judgement

Tapen Sen, J.—By the Court.—Heard Mr. P.K. Verma, learned counsel for the Petitioners and Ms. Bharti Kumari, JC to GP-IV for the respondent Nos. I to 6.

Respondent No. 7 (State of Bihar) has stated in its Counter Affidavit that it has no relationship with this case or with the case of the petitioners. They have also stated that the Health Guides were engaged on a token amount of Rs. 50/- per month under the Schemes of the Central Government and that the Government of India has decided to discontinue its participation in the said Scheme from April, 2002. It has also been stated that pursuant to the aforementioned decision (Annexure- A appended to the Counter Affidavit of the State of Bihar), the State Government of Bihar has decided to close the scheme with effect from 1.4.2002. However, the State of Bihar has made statements in paragraph - 8 to the effect that in a similar matter WP No. 5682 of 2000 (R), disposed off on 12.3.2002, this Court has held that the petitioner therein cannot claim regularisation of their services since they were engaged against token money of Rs. 50/- and they were not on rolls.

2. Similar affidavit has been filed on behalf of the State of Jharkhand. It has

been stated in paragraph-5 that Health Guide Scheme was initiated in the financial year 1982-83, mentioning that these Health Guides will work for service to the society on a fixed honourarium and that it will neither be treated as a source of income nor as a basis for a claim in Government service. It has also been stated that their consent for sparing their time for service to the society was taken and thereafter, kept in records and therefore, it cannot be said that these persons are Government employees. It has also been stated that there is no post of Health Guide created by Health Department of the State, In support of the aforesaid contention, the Health Guides Scheme has been brought on record vide Annexure-A to the Counter Affidavit of the State of Jharkhand.

3. It appears from Annexure- B appended to the Counter Affidavit of the State of Jharkhand that an absolutely similar and identical matter was argued by the same counsel who is representing the case of the petitioner in this case and by Order dated 2.8.2001, another Hon''ble Single Judge dismissed the Writ Petition on the ground that the petitioner therein was not a Government employee as there was no post of Health Guide created in the Health Department of the State. It was also held that in the absence of any rule/scheme, this Court cannot direct to regularise the service of that petitioner. Similarly, the prayer in relation to payment of regular salary was also turned down on the ground that these Health Guides were not on the rolls of the State nor employees thereof.

4. This Court is in respectful agreement with the Order passed on 2.8.2001 in WP (S) No. 3443 of 2001 and accordingly, proceeds to hold that this case is squarely covered by that order and therefore, there is no scope for any interference by this Court in this case.

5. Accordingly, the Writ Petition is dismissed. However, this Order will not stand in the way of the petitioners for regular appointment if they apply in pursuance of any advertisement that may be advertised by the State provided of course, these petitioners are eligible on all counts.

6. This Writ Petition is accordingly dismissed. There shall however be no order as to costs.