

(2021) 03 JH CK 0003
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5256 of 2018

Brij Bhushan Rai	Vs	APPELLANT
Jharkhand State Housing Board And Ors		RESPONDENT

Date of Decision : 01-03-2021

Acts Referred:

Citation : (2021) 03 JH CK 0003

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Saurav Arun, Someshwar Roy, Akashdeep, Sanket Khanna

Final Decision : Disposed Of

Judgement

1. Heard Mr. Saurav Arun, learned counsel for the petitioner, Mr. Akashdeep, learned counsel for respondent nos. 1 to 4 and Mr. Sanket Khanna, learned counsel for respondent no.5.
2. This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard on merit.
3. The petitioner has preferred this writ petition for direction to the respondents to regularize the service of the petitioner w.e.f. 23.01.2001 instead of 04.01.2008.
4. The petitioner along with others were appointed and they were working as daily wagers on Class-IV post. They moved before this Court in C.W.J.C. No. 1171 of 1998(R), which was dismissed on 18.07.1988. The said daily wagers moved before the Hon'ble Supreme Court in SLP (Civil)

No. 11538 of 1998. Leave was granted by the Hon'ble Supreme Court and the said S.L.P. was converted into Civil Appeal No.766 of 1991, which

was disposed of on 13.02.1991, in which, the Hon'ble Supreme Court has held that 257 daily wagers were entitled to be regularized in Work Charge

Establishment as per the Chart enclosed with the letter dated 30.06.1990. The petitioners of that case figured at serial numbers 157, 168, 252 and 264

in the chart submitted before the Hon'ble Supreme Court. However, the respondents instead of regularizing the petitioners of that case initiated

process for termination of their services. The Hon'ble Apex Court vide its order dated 13.02.1991 passed in S.L.P. (C) No. 766 of 1991 directed as

under:

â??Special leave granted.

The matter is heard with reference to the documents and affidavits placed as also the submissions advanced at the Bar.

We are satisfied on the material placed that 257 daily workers are entitled to be regularized in the work-charge Establishment as per the chart

enclosed to the letter dated 30.06.1990. The names of these 257 workers have been approved by the administrative department of the Housing Board

on 15th December, 1990.

We, therefore, direct that the Housing Board shall regularise the services of these 257 workers in its work-charge Establishment and they shall cease

to be daily workers with effect from 19th September, 1990. So far as the remaining appellants are concerned, we make no direction as the material on

record we are satisfied that the work-charge Establishment of the Board does not have scope to provide similar work for them. This disposes of the

appeal without any order for costs.

The contempt petition and the petition for intervention are dismissed as not pressed.â??

5. Out of 257 daily wagers, whose names were approved by the Administrative Department, 65 persons were left out for regularization including the

petitioner. In this background, similarly situated other persons moved before this Court in W.P. (S) No. 3851 of 2002, which was allowed vide order

dated 17.09.2008 and the direction was issued to regularise the services and pay all the consequential benefits to those persons w.e.f. 23.01.2001.

6. Mr. Saurav Arun, learned counsel for the petitioner submits that the persons,

who were junior to the petitioner in the said list, they have been regularized w.e.f. 23.01.2001 by none other than the Managing Director of the Jharkhand State Housing Board vide order dated 14.10.2009.

However, the service of the petitioner has been regularized w.e.f. 04.01.2008. He further submits that in view of the judgments passed by the Hon'ble

Supreme Court and coordinate Bench of this Court dated 13.02.1991 and 17.09.2008 respectively, the case of the petitioner is fit to be allowed.

7. Mr. Akashdeep, learned counsel for respondent nos. 1 to 4 has not been able to distinguish the case of the petitioner.

8. In view of the above facts and considering the fact that identical matters have already been set at rest and the persons, who have approached

earlier by way of filing the writ petition, their services have been regularized w.e.f. 23.01.2001 with all consequential benefits. There is no reason why

such benefits shall not be provided to the petitioner. However, the service of the petitioner has been regularized w.e.f. 04.01.2008 instead of

23.01.2001 in spite of the order, as indicated above.

9. As a cumulative effect of the aforesaid discussions, the petitioner is also entitled for regularization of service w.e.f. 23.01.2001 with all

consequential benefits. Accordingly, the respondents are directed to issue an order for regularizing the service of the petitioner w.e.f. 23.01.2001

within a period of six weeks from the date of receipt/production of a copy of this order and the respondents are also directed to pay all the

consequential benefits to the petitioner within further period of eight weeks thereafter. The payment already made pursuant to the regularization of the

petitioner w.e.f. 04.01.2008 shall be deducted by calculating the consequential benefits, pursuant to the above order.

10. With the above observations and directions, this writ petition stands disposed of.

11. Consequently, I.A. No. 5105 of 2020 also stands disposed of.