

**(2015) 08 JH CK 0043**  
**In the Jharkhand High Court**  
**Case No : W.P. (S) No. 708 of 2014**

Daya Shankar Prasad Karn

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 24-08-2015

**Acts Referred:**

**Citation :** (2015) 3 JLJR 604

**Hon'ble Judges :** Aparesh Kumar Singh, J.

**Bench :** Single Bench

**Advocate :** Devesh Krishna, for the Appellant; Ajit Kumar, for the Respondent

**Final Decision :** Disposed Off

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## Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. The petitioner is seeking regularization in service. He also claims salary/wages for the period 1.8.1995 to 13.5.1998. Annexure-11 letter No. 249 dated 6.3.2007 of Superintending Engineer, Rural Engineering Organization (REO), Works Circle, Dumka addressed to the Chief Engineer, REO, Chhotanagpur, Santhal Paragana, Jharkhand indicates that petitioner was engaged on daily wages as a Road Roller Driver on 5.4.1984 at Hazaribagh Division and payments of wages up to 31.7.1995 had been made. In between, he was placed at Deoghar Division on the same post on 3.7.1993. The petitioner and others were taken in Work Charge Establishment by Memo No. 649 dated 28.7.1995, but that decision was cancelled by Memo No. 814 dated 6.9.1995. Those two decisions i.e. 28.7.1995 and 6.9.1995 are annexed as Annexures-2 and 3 to the writ petition. Petitioner has made reference to communication bearing memo. No. 6533 dated 17.10.2003 (Annexure-5) and letter No. 1457 dated 19.12.2006 (Annexure-6) of the Executive Engineer, REO, Works Division, Dumka and Superintending Engineer, REO, Works Circle, Dumka whereby list of employees in daily wages including the petitioner were sent to the higher authorities and the department. He also refers to the letter dated 18.2.2006 of the Respondent No. 4 which is in the nature of a recommendation of the petitioner (Annexure-7). Petitioner contends that

subsequent letter No. 1005 dated 26.10.2009 issued by the Respondent No. 5- Executive Engineer, REO, Works Division, Dumka also contains the name of the petitioner along with other persons forwarded to the department for necessary action in respect of claim of the daily wage employees, however, no decision has been taken in the matter of their regularization. Petitioner also refers to the case of Bachneshwar Prasad Ram, a Daily Wage Peon under the office of REO, Works Division, Godda whose services were regularized by communication dated 29.3.2007 contained in Memo No. 2601 issued by the Under Secretary of the Department.

2. Respondents contend that the engagement of the petitioner was on daily wage on Muster Roll and just after services of the petitioner were taken in Work Charge Establishment, it was cancelled in September 1995. Respondents deny taking work from the petitioner from 6.9.1995 to 13.5.1998. According to them, though he has been engaged as daily wage worker in different scheme and payments have been made as per Measurement Book but he has not worked continuously. Respondents also contend that the appointment of the petitioner was not made against any sanctioned and vacant post, nor any advertisement was issued. The claim of the petitioner for regularization is being contested on these grounds.

3. Learned counsel for the petitioner submits that after working in the department for several years, claim for regularization should be considered more so in view of Regularization Rules, 2015 notified on 13.2.2015 by the Department of Personnel, Administrative Reforms and Rajbhasha, Government of Jharkhand pursuant to the direction passed by Hon"ble Supreme Court in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, and also direction passed in one or the other writ petitions by this Court. He submits that the petitioner has completed more than ten years of engagement under the respondent by the cut-off date i.e. 10.4.2006 which entitles him for consideration under 2015 Rules.

4. Learned counsel for the respondent State does not dispute that Regularization Rules, 2015 have been framed in pursuance of the direction passed in the case of Uma Devi (supra) by the Apex Court. He submits that conditions stipulated thereunder are required to be satisfied for consideration of any such claim for regularization.

5. Having considered the rival submissions of the parties, and having taken into account the material facts pleaded, it appears that in view of Regularization Rules, 2015 framed by the respondent Government, petitioner can make a claim for regularization thereunder before the competent authority subject to fulfillment of conditions stipulated therein. One of the conditions contained therein is that the persons should have completed ten years of work as daily wage/temporary service before the cut-off date 10.4.2006. Other conditions relating to the claim are also required to be satisfied. In such circumstances, when the petitioner is shown to have worked from 5.4.1984 till 31.7.1995, as per

Annexure-11 letter dated 6.3.2007 of the respondent authority himself, it would be appropriate that the petitioner's case should also be considered by the competent authority under the respondent department. Accordingly, let the petitioner approach the Respondent No. 3-Chief Engineer, Rural Works Department, Ranchi by way of a representation in respect of the aforesaid claim. The Respondent No. 3/Competent Authority would consider the same and if eligibility conditions under 2015 Rules are satisfied, the matter be placed before the Committee constituted for the said purpose for taking a decision in the matter of his regularization within a reasonable time, preferably within a period of sixteen weeks from the date of receipt of a copy of this order. If the petitioner is able to show before the Respondent No. 3 any cogent admissible documents of discharge of duty for the period 1.8.1995 to 13.5.1998, then the Respondent No. 3 would consider the same in accordance with law. The writ petition stands disposed of accordingly.