
(2014) 02 JH CK 0008
In the Jharkhand High Court
Case No : W.P. (S) No. 5562 of 2013

Gendhari Singh

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 24-02-2014

Acts Referred:

Citation : (2014) 4 JLJR 217

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Sujit Narayan Prasad, Advocate for the Appellant; Ram Nivas Roy, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties.

2. This petitioner along with others had earlier approached this Court in WPS No. 1444/2012 with a prayer to direct the respondents to grant them minimum scale of pay for the period they had worked as daily wage employees under the respondent department before their services were regularized.

3. The writ petitioner is said to be the employee working on daily wages for different periods since he was engaged in the year 1982 under the Minor Irrigation Department, as per para-5 of the writ petition. His services have been regularized by the department in the month of March 2011. In the aforesaid background, being guided by the judgment rendered by this Court in the case of Nand Kishore Rai vs. State of Jharkhand & others [WP(S) No. 700/2009], earlier writ petition was preferred being WPS No. 1444/2012. The said writ petition was, however, disposed of by directing the respondent authorities to take an appropriate decision in the matter while appreciating the judgment delivered by this Court in W.P. (S) No. 700 of 2009. The petitioner's representation has now been rejected by the impugned order at Annexure-13 dated 17.07.2012 passed by the Principal Secretary, Water Resources Department, Government of

Jharkhand.

4. Learned counsel for the petitioner submits that the prayer has been rejected inter alia on the ground that the respondent-State had chosen to assail the judgment rendered in WPS No. 700/2009 in Letters Patent Appeal. Apart from that, a plea has been taken that this petitioner has been paid his daily wages for the relevant periods in which he had earlier worked. Learned counsel for the petitioner submits that the said Letters Patent Appeal being LPA No. 130/2012 preferred by the State against the said judgment of the learned Single Judge in the case of Nand Kishore Rai (Supra) has been dismissed by order dated 05.07.2012. Petitioner has also brought on record Annexure-14, which is judgment passed by the Hon"ble Supreme Court dismissing the SLP being SLP(Civil) CC No. 9080 of 2013 on 08.05.2013 preferred by the state against the judgment rendered in LPA No. 130 of 2012. According to the petitioner, following the said judgments another learned Single Bench of this court has also passed further judgments in W.P. (S) No. 4710 of 2012 judgment dated 09.07.2013. The respondents are, therefore, liable to pay remuneration to the petitioner equal to the salary at the lower grade of employees in the cadre in Water Resources Department, State of Jharkhand. Learned counsel for the petitioner submits that in similar circumstances, the impugned order of the same date i.e. 17.07.2012 passed in the case of another employee namely Jairam for the same reason was set aside by this Court in W.P. (S) No. 6059 of 2012 vide judgment dated 17.02.2014.

5. Learned counsel for the State submits that the writ petition is being taken up for the first time and no instructions have been received to make submissions on the merit of the claim of the petitioner. Learned counsel for the respondents, however, after going through the impugned order and order passed by the Apex Court in Special Leave to Appeal being SLP(Civil) CC No. 9080 of 2013 is not able to dispute that the appeal preferred by the State against the judgment passed by the Letter Patent Court in LPA No. 130 of 2012 has not been interfered by the Apex Court.

6. Having regard to the aforesaid facts and circumstances, it appears that the respondent No. 2, Principal Secretary, Water Resources Department, Government of Jharkhand needs to reconsider the matter relating to the claim of the petitioner in view of the fact that the judgment rendered in the case of Nand Kishore Rai (Supra) by the learned Single Bench has attained finality as neither the Letter Patent Court nor the Apex Court has interfered in the same. The respondent No. 2, Principal Secretary, Water Resources Department, Government of Jharkhand in the reasoned order had referred that the State has chosen to prefer an appeal against the judgment passed in W.P. (S) No. 700 of 2009 being the ground for rejecting the petitioner's claim. In the aforesaid facts and circumstances, therefore, the matter is remanded for reconsideration by the respondent No. 2 in view of the subsequent judgment passed by the Letters Patent Court in LPA No. 130 of 2012 as also the judgment rendered by the

Hon"ble Apex Court in Special Leave to Appeal being SLP (Civil) CC No. 9080 of 2013 vide judgment dated 08.05.2013 by passing a fresh order on the claim of the petitioner for remuneration equal to the salary at the lowest grade of employees under the cadre of Water Resources Department, Government of Jharkhand, within a period of 12 weeks from the date of receipt of a copy of this order.

7. The writ petition is, therefore, disposed of in the aforesaid manner.