
(2015) 08 JH CK 0088

In the Jharkhand High Court

Case No : Writ Petition (S) Nos. 3234 and 3235 of 2009

Kajru Ram and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 03-08-2015

Acts Referred:

Citation : (2015) 08 JH CK 0088

Hon'ble Judges : Rongon Mukhopadhyay, J

Bench : Single Bench

Advocate : Rajiv Kumar, for the Appellant; Dhananjay Kumar Dubey, Sr. S.C. I, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Rongon Mukhopadhyay, J—Since in W.P.(S) No. 3234 and 3235 of 2009 common question of fact and law arises, as such, the same are being disposed of by this common order.

2. In this writ application, the prayer of petitioners is for a direction upon the respondents for making payment of arrears of salary to the petitioners for various periods as also for a further direction upon the respondents to adjust the services of the petitioners against the vacant and sanctioned post in the regional office pursuant to the recommendation made by the Tribal Welfare Commissioner, Jharkhand, Ranchi dated 28.03.2008. The petitioners have further prayed for a direction upon the respondents to treat the petitioners at par with the other similarly situated employees working under other Pre Examination Training Centres for Scheduled Castes in different districts who have been absorbed/adjusted in other departments vide order dated 22.09.2006 passed by the respondent No. 1.

3. The petitioner (in WPS No. 3234 of 2009) was appointed as a Peon and the petitioner (in WPS No. 3235 of 2009) was appointed a Typist-cum-Clerk in Pre Examination Training Centre for Scheduled Caste, Ranchi and appointment letter

were duly issued by the Director of the Centre. A recommendation was made by the Tribal Welfare Commissioner on 14.12.2005 for reconstitution of the Pre Examination Training Centres existing in the State of Jharkhand by abolishing those centres and employees who were working in the centres at permanent basis were adjusted in the equivalent post in the State Government. The Tribal Welfare Commissioner vide letter dated 28.03.2008 had directed the Special Secretary, Welfare Department, Jharkhand, Ranchi to consider the case of the employees for adjustment of their services against the vacant post in the regional office. Several persons situated in various Pre Examination Training Centre for Scheduled Castes in various districts have already been adjusted/absorbed vide order dated 22.09.2006, but the case of the petitioners has not yet been considered.

4. Heard Mr. Rajiv Kumar, learned counsel for the petitioners and Mr. D.K. Dubey, learned Sr. S.C. I for the respondents - State.

5. Mr. Rajiv Kumar, learned counsel for the petitioners submits that initially the petitioners have prayed for arrears of salary since the petitioners were working in the Pre Examination Training Centre for Scheduled Castes since long, but subsequently on account of the fact that on closure of Pre Examination Centres in various districts, the employees were being absorbed/adjusted in the regional offices/departments, petitioners have broadened their prayer for a direction upon the respondents to treat them at par with those employees already adjusted/absorbed. It has been submitted by the learned counsel for the petitioners that in the initial counter affidavit filed by the respondents, it was averred that the centre in which petitioners are working has been closed, whereas in the subsequent affidavit, a contrary stand has been taken leading this Court to pass an order on 27.06.2012 directing the authors of the two contradictory affidavits to file a supplementary counter affidavit. It is further submitted that from the various affidavits filed by the respondents, a peculiar situation has emerged inasmuch as, the respondents have not categorically stated that the centre was closed or for that matter, the centre is still functioning. What has been stated is that, since no fund was provided to the centre beyond the financial year 2007-08 which according to the respondents indicates that the centre is now automatically closed. Mr. Rajiv Kumar, learned counsel for the petitioners has further submitted that similarly situated persons who were employed in training centres which were subsequently closed have already been adjusted/absorbed in various regional offices/departments.

6. Mr. D.K. Dubey, learned Sr. S.C. I, on the other hand has submitted that the term of the centre was extended for the financial year 2007-08, but since no further extension has been made or any fund has been provided beyond the financial year 2007-08, the centre is now deemed to have automatically closed. It has further been submitted that since the State Government was not the appointing authority of petitioners and since fund has not been extended any further, the centre automatically ceases to exist and the petitioners being the

employees of the centre now automatically ceases to be employees of the centre and in such circumstances, the claim of petitioners cannot be considered by the respondents.

7. It is not in doubt that an order was passed by the Welfare Department, State of Jharkhand as contained in Memo No. 2845 dated 22.09.2006 in which since the various Pre Examination Training Centres for Scheduled Castes were closed w.e.f. 01.11.2006, various employees who were employed in the said Training Centres were ordered to be absorbed/adjusted in various departments of the State Government. Initially, the respondents had come up with a stand that the Training Centre in Ranchi which concerns the petitioners was closed, but the subsequent affidavit spelt otherwise. In such circumstances, this Court had passed an order on 27.06.2012 directing the State - respondent to file a supplementary affidavit. The affidavit which has been filed by way of reply of the respondent to the rejoinder of the petitioners dated 20.11.2010 suggests that beyond the financial year 2007-08, no further extension has been granted nor has fund been provided by the Welfare Department, State of Jharkhand indicating therein that the Centre is now automatically closed. If that be the position, as has been stated in the said affidavit, the respondents have kept silent with respect to considering the case of the petitioners at par with those employees of the Pre Examination Training Centre already closed and who had been adjusted/absorbed in terms of the office order as contained in Memo No. 2845 dated 22.09.2006. The respondents cannot be allowed to keep the petitioners in a dilemma with respect to closure/non-closure of the Training Centre and their absorption/adjustment but taking into consideration what has been stated by the respondents in the reply to the rejoinder filed on behalf of the petitioners, the case of the petitioners deserves consideration by the authorities.

8. Accordingly, these writ applications are disposed of with a direction to the respondent No. 2 to consider the claim of the petitioners for their absorption/adjustment in other government departments in tune with the treatment meted out to other employees of the various Training Centres as per Memo No. 2845 dated 22.09.2006 and thereafter pass a reasoned and speaking order within a period of 8 weeks from the date of the receipt of the copy of this order.

9. So far as the arrears of salary as claimed by the petitioners is concerned, the same shall also be considered by the respondent No. 2 within the time frame mentioned above.

10. These writ applications are disposed of in terms mentioned above.