

**(2012) 12 JH CK 0020**  
**In the Jharkhand High Court**  
**Case No : L.P.A. No. 355 of 2012**

Mr. Sarfaraj Ahmad

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 06-12-2012

**Acts Referred:**

**Citation :** (2012) 12 JH CK 0020

**Hon'ble Judges :** Prakash Tatia, J;Jaya Roy, J

**Bench :** Division Bench

**Advocate :** Pravin Kumar Rana, for the Appellant;

**Final Decision :** Allowed

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## Judgement

1. Heard learned counsel for the parties. The appellant, who is a poor fellow, was engaged as Home Guard Volunteer and was getting honorarium of Rs. 175/- per day only. It appears that petitioner/appellant was not permitted to join the duties on earlier occasion then he preferred writ petition being W.P.(S) No. 1964 of 2003 wherein directions were issued to the respondents on 15th April, 2009 to accept his joining, if there is no termination or dismissal of the petitioner from service. When said order was not complied with, the petitioner filed one contempt petition being Contempt Case (Civil) No. 397 of 2009 and thereafter petitioner was allowed to join his duties.

2. It appears that petitioner's grievance, as raised in the writ petition, is that he is sufficient senior and he was working as a Guard Commander which is equal to Hawaldar and a post of Non-Commissioned Officer and he is not being allowed to join the duties on the said post. The petitioner, in fact, prayed in the writ petition that he is entitled to the promotional post.

3. Learned Single Judge, after considering the application, observed that petitioner himself submitted application stating therein that he is mentally sick and, therefore, he may be relieved. However, from the copy of the application shown to us by learned counsel for the petitioner/appellant, copy of which is

placed on record of L.P.A. as Annexure-C, it appears that petitioner in his application mentioned that he is physically unfit and that appears to have been misread like petitioner is mentally sick. Therefore, the impugned order dated 23rd July, 2012 proceeded on wrong presumption of fact. It is not the case of the respondent State that petitioner's services have been terminated and even if he was working on the post of Home Guard Volunteer and discharging his duties, then we do not find any just reason for not taking the duties of the writ petitioner/appellant when department has not proceeded departmentally against him.

4. Looking to the poor condition of the writ petitioner, we direct the respondents to take the petitioner on duty as Home Guard Volunteer and comply with the rest of the directions given by the learned Single Judge and further, pay the honorarium as per their Rules from time to time. The petitioner is not pressing the question of seniority or promotion etc. This L.P.A. is allowed accordingly.