

---

**(2014) 07 JH CK 0124**  
**In the Jharkhand High Court**  
**Case No : W.P.(S) No. 4258 of 2013**

Munni Jha

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

---

**Date of Decision :** 07-07-2014

**Acts Referred:**

**Citation :** (2015) 1 JLJR 58

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

**Bench :** Single Bench

**Advocate :** Purnendu Sharan, Advocates for the Appellant; Prabhat Singh and Ajit Kumar, Advocates for the Respondent

---

## Judgement

Aparesh Kumar Singh, J.—Heard counsel for the petitioner as well as learned counsel for the respondent- State. The case of the petitioner is that he was appointed on the post of Chain Men by the Rehabilitation Officer, Kosi Project on 15.12.1981 vide Annexure-1 and his appointment was also approved by the department vide Annexure-2 dated 20.1.1982. However by office order dated 5.6.1998, the Director, Rehabilitation and Land Acquisition terminated the services of the petitioner treating it to be irregular appointment (Annexure-5). The said termination order was challenged in C.W.J.C. No. 6070 of 1998, which was allowed in his favour by quashing the order of termination of the petitioner and some other persons with a direction to the respondents to consider the matter for their regularization within stipulated period (Annexure-6, para 27(III) of the said judgment). However, an L.P.A preferred by the respondent- State of Bihar against the said judgment was allowed being L.P.A. No. 694 of 2000 (The State of Bihar v. Baijnath Jha) vide judgment dated 29.1.2003 (Annexure-7). The petitioner and others, thereafter preferred Civil Appeal Nos. 5682-5684 of 2004, which however were also dismissed vide Annexure-8 dated 11.7.2006 after considering the decision rendered in the case of State of Karnataka v. Uma Devi & Others by the Constitution Bench of the Apex Court reported in Secretary, State of Karnataka and Others Vs. Umadevi and Others, . Petitioner, however

again preferred a writ petition being W.P.S. No. 3517 of 2007 seeking a mandamus to direct the respondents to consider his case for regularization in terms of the para 44 of the Judgment rendered by the Constitution Bench of the Hon"ble Supreme Court in the case of Uma Devi & Others (supra). In the said writ petition after taking into account all the previous unsuccessful challenges of the termination order by the petitioner, learned Single Bench of this Court dismissed the same having found that the matter has attained finality up to the Hon"ble Supreme Court. It was also observed that it will amount to re-opening of the case. However, by the said judgment dated 14.2.2008 after dismissing the writ petition it was also observed that it is open for the respondents to consider the representation of the petitioner. The petitioner is said to have represented pursuant to the little window of hope left for him even after the entire round of unsuccessful litigations. Though the said representation has been rejected on 6.9.2013 by the respondents-Water Resources Department, Government of Jharkhand (Annexure-A to the counter affidavit), but the same is not under challenge. Petitioner in the instant writ petition is once again seeking a command upon the respondents to regularize and reinstate him in the light of the judgment passed in the case of one Gopal Singh by this Court reported in 2005(4) JLR 614, which was said to have been affirmed up to the Hon"ble Supreme Court. He however also chosen to refer to the case of one Chitranjan Kumar Singh who although is said to have been terminated on 1.3.1997 from the post of Amin in similar manner to that of petitioner and had lost till the Apex Court like the petitioner earlier but had chosen to prefer another writ petition being W.P.S. 3524 of 2007 along with five others, which was however allowed directing the respondents to grant them similar relief like that of Gopal Singh. A perusal of the said judgment (Annexure-11/1), however indicate that the said writ petition was preferred challenging the order of termination dated 11.6.2007 and also consequentially seeking regularization on the said post. Petitioner has also enclosed the judgment rendered by the learned Single Bench of the Patna High Court in Civil Review No. 92 of 2012 (Annexure-13) dated 7.3.2012 stating that even after the said persons lost till the Apex Court against the order of termination, pursuant to the liberty granted by the Hon"ble Supreme Court, they chose to prefer instant review petition in which directions have been passed to consider their case in the manner as has been done with other similarly situated persons. Therefore, in the aforesaid background of facts, the writ petition has been argued by the learned counsel for the petitioner seeking issuance of mandamus for his regularization and reinstatement in service.

2. Respondents have squarely opposed the petitioner's case on the ground that issue has attained finality after having been decided up to the Hon"ble Supreme Court. The matter cannot be reopened as such.

3. Having heard learned counsel for the parties, in the aforesaid background of facts and circumstances, this Court is of the view that the issue of regularization/reinstatement of the petitioner is no longer open to be re-agitated on his part. The order of termination has been affirmed till the Apex Court as aforesaid. The

Apex Court as aforesaid had also considered the ratio laid down in the Constitution Bench Judgment rendered in the case of Uma Devi and Others (supra) while dismissing the Civil Appeal. Learned Single Bench of this Court, in the earlier writ petition preferred for similar relief had also taken note of this fact and clearly observed that the matter has attained finality till the Supreme Court and no relief can be granted to the petitioner. The reliance upon the order passed in Civil Review petition by the learned Single Bench of Patna High Court will not come to petitioner's help as the said review petition was entertained only after liberty was granted by the Hon"ble Apex Court in the case of said persons even though they had lost till the Apex Court earlier. I am afraid that if the matter has reached finality by virtue of dismissal of Civil Appeals by the Apex Court, re-opening such issue is not permitted by this Court. The case of Chittranjan Kumar Singh would also not help the petitioner as on perusal of the said judgment passed by this Court it appears that order of termination challenged there in was of the year 2007 wherein the said relief was granted. Accordingly, though the learned counsel for the petitioner has laboured to draw, home the point for re-opening of the matter, but the same being hit by doctrine of res-judicata cannot be allowed to be opened. Doctrines of res-judicata is primarily based upon two principles of legal maxim. (1) public policy, "for interest republic ut sit finis litium", which means that it is in the interest of republic that there should be a finality to a litigation and (2) "NEMO DEBET BIS VEXARI PRO UNA ET EADEM CAUSA", it is a rule of law that a man shall not be twice vexed for one and the same cause (r). Therefore the attempt of the petitioner to re-open the issue on any pretext would amount to abuse of process of Court which cannot be permitted in the eye of law. The writ petition is accordingly dismissed.