

(2009) 11 JH CK 0042
In the Jharkhand High Court

Parwati Devi

APPELLANT

Vs

The State of Jharkhand, The Deputy Commissioner and The
Sub-Divisional Officer

RESPONDENT

Date of Decision : 30-11-2009

Acts Referred:

Citation : (2009) 11 JH CK 0042

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard counsel for the parties.

2. The petitioner has prayed for issuance of a direction to the respondents, namely the Deputy Commissioner, Dhanbad, to consider the petitioner's case for regularization of her service on Class-IV post of Sweeper and also to pay her the salary for the period September, 2004 to December, 2004.

3. The services of the petitioner used to be engaged on part time daily wage basis since 1988 as a Sweeper, by the then Deputy Commissioner, Dhanbad. She has claimed that she has, completed more than 240 days of uninterrupted service and upon consideration of this aspect, she was allowed payment of bonus by her employer.

However, after some time, she was not paid her salary. Being aggrieved, she moved this Court by filing a writ application vide W.P.(S) No. 6578 of 2004. The writ application was disposed of by this Court by order dated 20.12.2004 with a direction to the Deputy Commissioner, Dhanbad to consider the petitioner's case and pass an appropriate reasoned order.

4. It appears that upon the matter being remitted back to the Deputy Commissioner, Dhanbad, a decision was taken and pursuant to such decision, the Sub-Divisional Officer, Dhanbad handed over a cheque for Rs. 18,331/- to the petitioner, assessing the same as the amount of arrears to which the petitioner was entitled.

5. The petitioner's grievance is that though such arrears were paid to her, but the wages for the months of September, 2004 to December, 2004 was not paid to her and instead, her services were terminated arbitrarily and in her place, the services of another employee has been engaged.

6. Learned Counsel for the petitioner submits that the action on the part of the respondents is totally arbitrary, discriminatory and illegal and the petitioner's services have been terminated even without considering the fact that she had served for more than 16 years as a daily wage employee.

7. In the counter statements, the respondents have denied and disputed the claim of the petitioner. The stand taken by the respondents is that the petitioner's services were admittedly engaged on daily wage basis and such services used to be taken for intermittent periods and for all such periods, during which her services were engaged, she has been paid her salary. As regards the petitioner's claim for payment of wages for the months of September, 2004 to December, 2004, it is stated that during the aforesaid period, the petitioner had never turned up for rendering any service at all and therefore she is not entitled for any wages for that period. It is further submitted that the petitioner cannot claim regularization of her services merely because she has worked for a long period as because appointment to the regular sanctioned post has to be made only in accordance with the Rules and after an advertisement for filling up the vacant posts is issued by the concerned authorities.

8. From the rival submissions, it appears that the petitioner's claim for wages for the month of September, 2004 to December, 2004 has been disputed on the ground that she has not worked during that period. This is admittedly a disputed question of fact and cannot be addressed in this writ application.

As regards the petitioner's claim for regularization, admittedly her services were engaged only on daily wage basis. She cannot claim her regularization only on the basis of her continuous service unless she undergoes the requirements as per the Rules applicable for regular appointment against existing vacancies.

9. For the above reasons, I do not find any merit in this writ application. Accordingly the same is dismissed.

10. However, the petitioner shall be at liberty to file her representation before the Deputy Commissioner, Dhanbad to consider her case along with other candidates, if any advertisement for filling up the existing vacancies in Class-IV post is issued and the petitioner also applies. The concerned authorities shall consider the grant of preference to the petitioner on the basis of the fact that she has gained a longstanding period of experience and, if need be, the possibility of extending relaxation of age may also be considered in favour of the petitioner.

With these observations, this writ application is disposed of.

Let a copy of this order be given to the counsel for the respondent State.