
(2011) 07 JH CK 0071

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4333 of 2009

Prafulla Mahto and Another

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-07-2011

Acts Referred:

Citation : (2011) 4 JCR 112

Hon'ble Judges : Poonam Srivastava, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Poonam Srivastava, J.—By the Court.--Heard counsel for the petitioner as well as the State counsel on behalf of the respondents.

2. Counter-affidavit is on record and the petition is listed for "Admission": As agreed between the respective counsels, the writ petition is heard finally.

3. The instant writ petition is preferred challenging the order of termination dated i 1.7.2009 and 23.7.2009 respectively, which has already been stayed by this Court, by which services of the petitioner stands terminated. The second prayer is claiming regularisation on the post for which he was appointed after the termination order is quashed. The assertion on behalf of the petitioner is that similar benefits have been granted in other cases by this Court as well as by the Apex Court.

4. The petitioners were initially appointed by the competent authority on the post of Chainman (Zanzeer Wahak). Pursuant to their appointment, the petitioners joined on 26.3.1985. Their service book was opened and the petitioners continued to work thereafter for almost 26 years and more. The contention on behalf of the State for termination is that the appointment of the petitioners was made by Land Acquisition Officer, the State of Jharkhand was of the view that the Land Acquisition Officer was not the competent authority for appointing the petitioners on the aforesaid post as well as the fact that the procedure for

appointment was also not followed. Similarly situated number of employees were also terminated after serving for a considerable length of period. The respondents claim that the termination of the petitioner is because their appointment on the post on which they were discharging their duty was held to be illegal ab initio. The respective appointment in respect of all the employees were challenged by them in separate writ petition including the present one.

5. Other similar writ petitions have been allowed. The order was challenged in L.P.A. which was rejected by the Division Bench. Both the orders were again questioned before the Apex Court. In one of the cases, the Apex Court namely in Civil Appeal No. 918 of 2008 annexed with the writ petition, held that the incumbent had worked for a period of ten years and this length of service was taken into consideration. The Hon''ble Supreme Court adopted a liberal view and directed the respondents to set aside the termination order. The Apex Court directed regularisation for the reason that after putting in such a long period of satisfactory period of service, such employees cannot be ousted without any rhyme or reason and If at all their appointment Was not by following the procedure of law, the respondents should have taken steps immediately after the appointment but not after such length of time, specially when they are no more entitled for a job in any other department.

6. Counsel for the petitioner has also placed reliance on a decision of this Court in the case of Gopal Singh Vs. State of Jharkhand and Others, and also in the case reported in 2005 (3) JLJR 240. These Judgments have also been affirmed by the Apex Court. The petitioner is also entitled for the same regularisation and liberal view and their claim is liable to be considered and the same relief should be granted.

7. In view of what has been stated above, the writ petition is allowed. The order dated 11.7.2009 and 23.7.2009 are hereby quashed