
(2015) 03 JH CK 0020
In the Jharkhand High Court
Case No : Writ Petition (S) No. 3894 of 2010

Priyanka Kumari

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-03-2015

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2015) 2 JLJR 347

Hon'ble Judges : Pramath Patnaik, J.

Bench : Single Bench

Advocate : Rajesh Kumar, for the Appellant; Yogendra Prasad, J.C to S.C.I.,
Advocates for the Respondent

Final Decision : Dismissed

Judgement

Pramath Patnaik, J.—In the aforesaid writ application, the petitioner has inter-alia prayed for issuance of an appropriate writ/direction commanding upon the respondents to allow the petitioner to work as office clerk and for direction upon the concerned respondents to forthwith release salary from November, 2009.

2. The factual matrix as delineated and described in the writ application is that the petitioner was engaged as office clerk on daily wages basis in July, 2008 in the office of Jharkhand Academic Council. She continued to render satisfactory services till November 12, 2009. Thereafter, without rhyme or reason, the petitioner has not been allowed to perform her duty by verbal order of special officer, Jharkhand Academic Council, Regional Office, Dumka and Chairman JAC, Ranchi, since 12.11.2009, even though, similarly situated persons and even junior to the petitioner have been performing their duties.

Being aggrieved, the petitioner sent representation on 30.11.2009 to Incharge Special Officer, Jharkhand Academic Council, Regional Office, Dumka, requesting therein that without any rhyme or reason she has been told verbally to perform her duty and further requested that she may be allowed to perform her duty vide

Annexure 3 to the writ application.

It has further been averred in the writ application vide notification dated 28.01.2009 that Government has sanctioned 352 posts for Jharkhand Academic Council and moreover vide Annexure 4 to the writ application including 200 posts of Assistants.

The grievance of the petitioner is that though other similarly situated persons have been allowed to continue but due to pick and choose method adopted by Jharkhand Academic Council, the petitioner has been removed from her services subjecting her to discrimination being violative of Article 14 and 16 of Constitution of India.

3. A counter-affidavit has been filed on behalf of respondent Nos. 3 and 4 repelling the averment made in the writ application.

It has been inter-alia stated in the counter-affidavit that since the engagement of the petitioner as clerk on daily wage basis not against any sanctioned post rightly her services has been dispensed with. Moreover the name of the petitioner has been shown at Serial No. 85 in the absentee register of July, 2008 and she has been shown to be present for 9 days since 23.7.2008 to 31.7.2008 as per attendance register of the petitioner since June, 2008 to May, 2009 vide Annexure-A to the counter-affidavit.

It has also been submitted that in the attendance register dated 12.11.2009, the name of the petitioner is at serial No. 74 which has been crossed and signed by the In-Charge Special Officer stating thereon terminated from service as per Annexure B to the counter-affidavit.

It has further been submitted that in the counter-affidavit similar matter bearing W.P (S) No. 1371 of 2010 (Shaiesh Kumar and others v. The State of Jharkhand and others), this Court vide order dated 21.5.2010 has given direction not to engage any person either on daily wage or otherwise without advertising the said till further order as per Annexure C to the counter-affidavit and it has been submitted that in view of the aforesaid order dated 21.05.2010, the petitioner is not entitled to be engaged and order of this Court dated 21.05.2010 is still in-force. On that score, it has been submitted that the writ application being not maintainable is liable to be dismissed in limine.

4. Heard, Mr. Rajesh Kumar, learned counsel for the petitioner and Mr. Rajesh Kumar, learned counsel for the respondents.

5. Learned counsel for the petitioner has referred to the reply to the counter-affidavit wherein it has been stated that the petitioner has been engaged on contractual basis against the sanctioned post which would be evident from Annexure 4 of the writ application and but without any justification, the services of the petitioner has been dispensed with without any show cause notice being violative of the principles of natural justice.

6. Learned counsel for the respondents vehemently submitted that since the engagement of the petitioner was on daily wage basis and the service of the petitioner having been dispensed with since November, 2009, she does not have any vested right for reappointment/re-engagement in her former post.

7. After having given my anxious consideration to the documents on records and rivalised submissions, I am of the view that there is no justifiable ground to entertain this writ application. Accordingly, the writ application is dismissed being devoid of any merit.