
(2010) 09 JH CK 0081

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4180 of 2010

Raj Kishore Ram

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 16-09-2010

Acts Referred:

Citation : (2011) 1 JCR 263

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard counsel for the petitioner and the counsel for the State and with their consent, this application is taken up for disposal at the stage of admission itself.

2. The petitioner in this writ application, has prayed for issuance of writ of Mandamus commanding upon the respondents to appoint the petitioner by way of his regularization in service on the post of Class-IV post in terms of the recommendation made by the District Establishment Committee, since the petitioner has been working on the Daily Wage basis ever since 1987 under the respondents. Alternative prayer is made by the petitioner to direct the respondents to allow him to apply on the Class-IV post against the Advertisement No. 1 of 2010 by relaxing the upper age limit.

3. From the facts pleaded in this writ application, it appears that the petitioner was employed as a driver on daily wage basis under the respondents ever since 1988. It also appears that the District Establishment Committee at its meeting held on 23.3.1991, had considered the case of the petitioner and other similarly situated daily wage workers and had recommended for regularization of their services. The petitioner's name was included in serial No. 17 of the panel prepared by the District Establishment Committee.

4. The grievance of the petitioner is that despite such recommendation, and despite the fact that he has been continuously working on daily wage basis since

1988, respondents have illegally denied him the benefits of regularization in service and the benefit of considering his candidature merely on the ground that he has crossed the upper age limit.

5. Though, no counter-affidavit has been filed on behalf of the respondents, but counsel for the respondents informs that though District Establishment Committee had recommended the case of the daily wage employees including the petitioner for their absorption by way of regularization of their services, but the decision on this issue could not be taken in favour of the petitioner on account of the fact that the petitioner has crossed the upper age limit and though, the Advertisement was also issued inviting applications from aspiring candidates, but the petitioner's candidature could not possibly be entertained in view of the fact that he has already crossed the upper age limit.

6. A similar issue was considered by a Bench of this Court in the case of Md. Asique Ansari and Ors. v. State of Jharkhand and Ors. vide W.P.(S) No. 6183 of 2006. While considering the admitted facts of the case, this Court had observed that "the claim of the petitioners for relaxation of their upper age limit, appears to be genuine in view of the fact that the writ petitioners who were working as daily wagers ever since 1988, cannot be faulted on account of lapses of the State Government in either not considering their cases for regularization or inaction on their part in not filling those posts earlier".

7. While giving direction to the concerned authorities of the respondents to relax the upper age limit in the case of the petitioners and also in the case of the other similarly situated daily wagers, this Court had also directed the respondents to extend the date of submission of their application form by issuing a corrigendum to the Advertisement if necessary.

8. Facts of the present case are identical to the facts of the case of Md. Asique Ansari and Ors. (Supra) and therefore, the same ratio would apply in the case of the present petitioner also. This case is disposed of accordingly with a direction to the respondents to relax the upper age limit of the petitioner and also extend the date of submission of his application form, if necessary, by issuing a corrigendum.

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