

(2008) 10 JH CK 0033
In the Jharkhand High Court

Ramdayal Karketta and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 20-10-2008

Acts Referred:

Citation : (2009) 1 JCR 24

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.R. Prasad, J.—The case of the petitioners is that they were initially employed on daily wages in B.S. College, Lohardaga in the year 1986/1987. However, pursuant to advertisement issued by Ranchi University, Ranch in the year, 1987 inviting applications for the appointments on Grade-IV posts in different colleges, the petitioners applied for their appointments in B.S. College, Lohardaga. On being interviewed, they were appointed as Grade-IV staffs on daily wages at the rate of Rs. 12/-per day in B.S. College. Lohardaga under Annexure-3 issued on 7.5.1988. Thereafter on 17.3.1990, services of the petitioners were regularized and thereupon, they were being paid salaries on regular pay scale and went on receiving their salaries till September, 1994. Meanwhile, an office order was issued on 22.2.1994 whereby services of many of the employees (Grade-III and Grade-IV) in the event of non-sanctioning of the posts by the Government were terminated with effect from 31.5.1994. However, under another notification dated 26.7.1994 earlier order of termination was modified to the extent that termination order was to be given effect from 31.7.1994 but before the order was given effect to, the petitioners under office order dated 26.7.1994 (Annexure-7) were allowed to work in view of the order passed by the Hon'ble Supreme Court in WP (Civil) No. 409 of 1991 and also in view of the order passed in Contempt Petition Nos. 280-404 of 1993. In spite of that, when the petitioners were not paid salaries in regular pay scale, petitioners moved before this Court, vide CWJC No. 3356 of 1994 (R) praying therein to direct the

University to regularize the services of the petitioners and to pay their salaries. However, the said writ application was disposed of directing the University to regularize the services of the petitioners against the sanctioned posts available or as and when the posts are sanctioned by the Government. Meanwhile, the respondents were directed to pay the salaries to the petitioners at the rate of Rs. 1,500/- per month. The order passed by the aforesaid writ application was challenged by the University in LPA bearing LPA No. 6 of 1997 (R) but the same got dismissed. Even then the order passed by this Court in the aforesaid writ application was not implemented. Therefore, the petitioners filed contempt petition, bearing MJC No. 17 of 1997 (R) and then the University started making payment at the rate of Rs. 1,500/- per month but the services of the petitioners were not regularized nor they were given full salary and therefore, the petitioners filed another writ application bearing CWJC No. 2241 of 1998 (R) wherein the State filed counter affidavit stating therein that till date, University has not made any request to the State Government for sanctioning the required class IV posts. However, the said writ application was allowed in terms of the decision of the Full Bench as reported in 1997 (1) PLJ 609 whereby the University was directed to regularize the services of the petitioners and to pay their salaries and allowances at par with other similarly situated regular employees. That order was again challenged by the University in LPA No. 221 of 2000(R) which was dismissed on 25.7.2000 but even then the order passed by this Court in the writ application was not complied with and hence, the petitioners had to brought contempt application and also filed a civil review application, bearing Civil Review No. 32 of 2002 wherein it was placed before the Court that the State of Jharkhand has already sanctioned the posts. Pursuant to the statement made on behalf of the State, Vice-Chancellor, Ranchi University, Ranchi was directed to look into the matter and to pay salaries and allowances to the petitioners at par with the regular employees. Pursuant to order dated 13.11.2002 passed in aforesaid civil review application, services of the petitioners were regularized and are being paid salaries in regular scale. However, learned Counsel Mr. A. Allam appearing on behalf of the petitioners submits that the grievance of the petitioners is that though petitioners are now being paid regular salaries, pursuant to order dated 13.1.2002 passed in civil review application but the authorities are not giving regular salaries to the petitioners from October, 1994 till they were given regular salaries and therefore, this writ application has been filed praying therein to direct the respondent to pay salary in regular scale from October, 1994 till the date when the petitioners started getting regular salaries and also to give seniority with effect from the date when the petitioners were initially appointed on daily wage basis.

2. As against this Mr. A.K. Mehta learned Counsel appearing for the University submits that prayer made in this writ application is quite untenable for the reason that posts on which the petitioners are working were never sanctioned by the State Government during the period for which regular salaries have been ought to be paid.

3. Admittedly, the petitioners were appointed in B.S. College, Lohardaga on daily wage basis at the rate of Rs. 12/- per day under notification dated 7.5.1988. After rendering services for a considerable period when the services of the petitioners were not regularized, the petitioners did approach before this Court and filed a writ application, bearing CWJC No. 3356 of 1995 (R) wherein prayer was made to direct the respondent to regularize the services of the petitioners and to pay regular salaries to the petitioners which application was disposed of by directing the respondents to regularize the services of the petitioners against the sanctioned posts available or as and when the posts are sanctioned by the Government. However, the respondents were also directed to pay salary at the rate of Rs. 1,500/- per month till the services of the petitioners are regularized. When the services of the petitioners were not regularized, the petitioners again preferred another writ application, bearing CWJC No. 241 of 1998 (R) for the same relief and the respondent-University was again directed to regularize the services of the petitioners and to pay their salaries and allowances.

4. However, as per the counter affidavit made on behalf of the respondents, it appears that the services of the petitioners could not be regularized on account of the fact that posts were not sanctioned by the State Government and as soon as the posts were sanctioned by the State Government, vide notification dated 12.11.2002. services of the petitioners were regularized and since then they are getting salaries on regular pay scale and under this situation, petitioners' claim for their salaries on regular scale for the period from October, 1994 till they were given regular scale is not tenable, firstly on the ground that during that period posts were never sanctioned and secondly, relief sought for is hit by principle of res judicata as the same issue had been raised in the two writ applications wherein petitioners had put for the claim forth regularization and payment of salary but the Court on adjudication passed an order in writ application, bearing CWJC No. 3356 of 1995(R) for regularization of the services in the eventuality of sanctioning of the post and the authorities were directed to pay salary at the rate of Rs. 1,500/- per month until the services of the petitioners are regularized and therefore, now the petitioners cannot be allowed to raise same issue asking this Court to direct the authority to pay salary on regular pay scale for the same period and therefore, the petitioners are not entitled to relief claimed in this writ application.

5. Accordingly, I do not find any merit in this writ application. Hence, this writ application is dismissed.