

(2013) 09 JH CK 0012
In the Jharkhand High Court
Case No : WP (S) No. 7404 of 2012

Ranjit Majhi and Another

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 17-09-2013

Acts Referred:

Citation : (2013) 4 JLJR 460

Hon'ble Judges : Aparesh Kr. Singh, J

Bench : Single Bench

Advocate : Saibal Mitra and Mrs. Nivedita Kundu, for the Appellant; Prabhat Singh, for the Respondent

Final Decision : Disposed Off

Judgement

Aparesh Kr. Singh, J.—Heard counsel for the parties. Petitioners have approached this Court in the present writ application to consider

their case for regularization in service under the respondents as they have been working continuously since 10.4.2003 on contract basis without

any break as Assistant Cook and Cook respectively at the M.G.M. Medical College and Hospital, Jamshedpur. The petitioners had earlier

approached this Court in W.P.S. No. 239 of 2008 where they had challenged the panel prepared for Class-IV employees in different categories

by the Deputy Commissioner of the concerned District. In the said writ petition learned Single Judge of this Court was not satisfied with the

eligibility of the petitioners. However, while disposing of the writ petition, it was observed that considering the submissions made by the petitioners

that they have rendered service as cook in the concerned establishment for several years and their services have been tested to be satisfactory, the

Deputy Commissioner may consider the candidature of the petitioners for appointment on the post of cook in the light of experience, if any, gained

by them and utility of the petitioners' services in the concerned establishment. Thereafter, order dated 10.2.2009 contained at Annexure-5 was

passed by the Deputy Commissioner, East Singhbhum indicating that petitioners have secured lesser marks in the exercise undertaken for

preparing panel for Class-IV employees in the said district. As such they cannot be appointed as cook. The contempt petition preferred by the

petitioner being Cont. (Civil) No. 10 of 2009 was dropped in view of the order passed vide Annexure-5. However, the petitioners were allowed

to file fresh representation before the concerned Authorities to consider the possibilities of granting promotion on the basis of past experience.

Thereafter, petitioners once again approached this Court in W.P.S. No. 910 of 2010 for seeking enhancement of their contractual wages. The said

writ petition was disposed of vide order dated 26.4.2011 with a direction to the Secretary, Health, Medical Education and Family Welfare

Department, Government of Jharkhand to consider the grievances of the petitioners and pass appropriate order in accordance with law.

Thereafter, the enhanced contractual wages have been granted by a reasoned order passed on 14.3.2012 by the respondents. In the present writ

application once again the petitioners have made prayer to consider the case for regularization.

2. Learned counsel for the respondent-State submitted that the terms and condition for their engagement itself stipulates that the petitioners would

not claim permanent appointment in the Government service on the basis of their contractual engagement. Their contractual engagement has been

extended from time to time including vide memo No. 1956 dated 11.8.2012 (Annexure-A to the counter affidavit). It is further submitted that the

petitioners were not found qualified in the District Level Class-IV examination for empanelment in Class-IV post. In such circumstances, learned

counsel for the respondents has contested the claim of the petitioner.

3. I have heard counsel for the parties and gone through the relevant materials on record. These petitioners claimed to have been working on

contractual engagement under the Respondents at M.G.M. Medical College and Hospital, Jamshedpur since April 2003. They had earlier

approached this Court for their empanelment when they could not be empaneled in Class-IV post in the district having failed to secure requisite qualifying marks. Thereafter, once again they approached this Court for enhancement of contractual wages in accordance with the terms of engagement stipulated as they were not granted permanence or regularization in service. Learned counsel for the petitioners, however has not brought to the notice of this Court any scheme framed by the respondent-State so that the case of the petitioners can be considered for such regularization. The practice of regularization of such daily wagers/temporary employees, initially engaged without proper advertisement and consideration of all eligible candidates have been deprecated in the judgment rendered in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, In view of the Constitution Bench judgment, petitioners, in the instant case have failed to make out a case for directing the respondents to consider the case for regularization of their services. If the respondents, however come out with any scheme for such regularization, it would be open for the petitioners to stake their claim for such regularization in service based upon their engagement for more than 10 years. However, in the present writ petition no relief can be granted. Accordingly, the writ petition is disposed of with aforesaid observation.