

(2017) 01 JH CK 0229
In the Jharkhand High Court
Case No : 5241 of 2015

Ratan Agarwal @ Ratan Lal Agarwal

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 30-01-2017

Acts Referred:

Citation : (2017) 01 JH CK 0229

Hon'ble Judges : Shree Chandrashekhar

Bench : SINGLE BENCH

Advocate : Rajesh Kumar, Ruchi Rampuria

Judgement

1. On a plea that claim for payment in the pay-scale of class-IV post has been declined vide order dated 21.05.2015 in complete ignorance of Office Order dated 11.04.2002 whereby other similarly situated persons were granted similar benefits, this writ-petition has been filed.

2. Heard.

3. The petitioner no.1 was appointed in the year 1978 and the petitioner no.2 was appointed in the year 1981. When their services were not regularized on a class-IV post, they came to this Court in W.P.(S) No.1740 of 2006. During the pendency of the writ-petition, they were regularized in service vide order dated 16.03.2011. They had claimed arrears in the minimum wages for the period between September, 2007 to 16.03.2011, i.e., till the date of their regularization in service. The writpetition was disposed of on 16.01.2013 granting liberty to the petitioner to approach the Engineer-in-Chief, Minor Irrigation Department, Government of Jharkhand for payment of minimum wages "also for the period prior to 16.03.2011". By a subsequent order, they were paid wages in the minimum scale of pay for the period between September, 2007 to 16.03.2011, however, no order in respect of claim for payment in the minimum scale of pay prior to 2007 was passed and therefore, the petitioners came before this Court in Contempt Case (Civil) No.439 of 2013. It appears that another Contempt Case

(Civil) No.13 of 2015 was also preferred by the petitioners, in the proceeding of which order dated 21.05.2015 was produced. This is the order by which petitioners' claim for the period prior to 2007 has been declined.

4. The learned counsel for the petitioners referring to order dated 11.04.2002 submits that other similarly situated daily-wagers were paid minimum pay-scale whereas, the petitioners' claim has been declined erroneously.

5. The erstwhile state of Bihar took a decision vide Resolution dated 18.06.1993 to regularise daily wage workers working prior to 01.08.1995. A list of the daily wage workers was approved on 25.10.1991. Under the scheme an advertisement was to be issued and appointment was to be made following the reservation policy of the State. When certain disputes arose, the matter was taken to the Court in "Laghu Sichai Karamchari Sangh and Others Vs. State of Bihar and Others" (C.W.J.C. No. 3510 of 1997). A learned Single Judge of the Patna High Court issued directions for implementation of the scheme of regularisation with a further direction for payment of the minimum of pay-scale to the daily wagers for the period prior to regularisation. The Letters Patent Appeal (LPA No. 939 of 1999) preferred by the State of Bihar was dismissed on 18.08.1999 as time-barred and thereafter, matter was taken to the Supreme Court. The Special Leave Petition (Civil) No. 18154 of 1999 concluded on 30.10.2000 by partly modifying the order passed by the learned Single Judge. The direction of the learned Single Judge that pending regularisation the daily wagers shall get minimum of the pay-scale was set-aside. Thereafter, regularisation of the daily wagers took place in three phases. The petitioners were regularised in the third phase. It appears that another writ petition being W.P.(S) No. 700 of 2009 (Nand Kishore Rai Vs. State of Jharkhand and Others) was filed seeking a direction for payment of wages equal to the salary in the lowest grade in the cadre. The reckoning date was 10.09.2007 and infact, a plea was raised that the daily wage employees were paid equal wage till 21.01.2009. After the order passed in W.P. (S) No.700 of 2009 was affirmed by the Supreme Court in Special Leave Petition (Civil) No.CC 9080 of 2013, the Government issued letter dated 30.03.2015 for payment of minimum wages from 10.09.2007 till regularisation in service.

6. The learned counsel for the petitioners, however, contends that the State of Jharkhand has taken a decision which is reflected in order dated 11.04.2002 whereby minimum pay-scale was paid to the daily-wage employees. The materials produced in the present proceeding would disclose that by an order contained in letter dated 07.05.1993 a decision was taken to pay minimum monthly wage and allowances to the dailywagers subject to approval of the Government and if it was not approved by the Government, such employees shall be paid daily-wages. Order dated 11.04.2002 also discloses that in compliance of order passed in W.P. (S) No.1035 of 2002 a decision was taken for payment of minimum wages to the daily-wagers till they are regularized in service. The petitioners have not denied that they were paid minimum wages fixed for daily-wagers, however, before the respondent-authority they raised a claim that they

should be paid minimum of pay-scale for class-IV post prior to 2007 also. In the proceeding of W.P.(S) No.1740 of 2006, this was not the claim raised by the petitioners rather, they had approached the Court for a direction for regularization of their service on class-IV post. Moreover, the petitioners who are claiming regular pay-scale for class-IV post since 1993 approached this Court only in the year 2006 and they have failed to explain the delay in raising a grievance in this respect. In terms of the Government decision, they have been paid minimum of pay-scale for the period between September, 2007 till their date of regularization. The Government decision was not challenged by the petitioners.

7. In the aforesaid facts, I find no infirmity in the impugned order dated 21.05.2015 and consequently, the writ-petition is dismissed.