
(2019) 07 JH CK 0092
In the Jharkhand High Court
Case No : Writ Petition (S) No. 2223 OF 2017

Sanjay Yadav

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 02-07-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 07 JH CK 0092

Hon'ble Judges : Dr. S. N. Pathak, J

Bench : Single Bench

Advocate : Saibal Mitra, Chandra Prabha, Vishal Kumar Rai

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties.
2. Petitioner has approached this Court with a prayer for setting aside the Memo No. 193, dated 27.02.2017, issued by the respondent no. 5 whereby and whereunder service of the petitioner has been terminated w.e.f. 28.02.2017 without any prior notice on the ground that decision has been taken to take work through outsourcing.
3. From the facts narrated in the writ petition, it appears that petitioner was appointed to the post of Generator Operator - cum
 - Electrician for Sadar Hospital, Godda on contract basis vide Memo No. 439, dated 23.09.2010, issued by Civil Surgeon - cum
 - Secretary, Managing Committee of the Hospital, Godda. There was specific stipulation that the period of Agreement was initially for 11 months i.e. for the periods 23.09.2010 to 22.07.2011 with a provision to extend the period of contract. Thereafter, the contract regarding services of the petitioner was extended and petitioner had been working continuously on a fixed salary and he lastly received his salary vide Cheque dated 28.02.2017. It is specific case of the

petitioner that suddenly he got Memo No. 193, dated 27.02.2017, by which Civil Surgeon - cum - Secretary, Managing Committee of the Hospital, Godda has terminated the contract of the petitioner with effect from 28.02.2017 on the ground that a decision had been taken to take the work through outsourcing. Being aggrieved, petitioner has knocked door of this Court.

4. Mr. Saibal Mitra, learned counsel appearing for the petitioner assailing the impugned order submits that impugned order is illegal, arbitrary and fit to be quashed. The respondent no. 5 has no jurisdiction to outsource work of the Hospital earlier being performed by petitioner. Learned counsel further argues that without any notice and without any consent of the petitioner, his services ought not to have been given to outsourcing agency. Further, it has been argued that the terms and conditions of the appointment has been violated and as such order is not tenable in the eyes of law and fit to be quashed and set aside. Learned counsel submits that it was only the petitioner whose services has been terminated on the pretext of outsourcing whereas services of not a single person had been disturbed, which is apparent from Annexure-A of the counter affidavit.

5. Mrs. Chandra Prabha, learned SC-I, opposing contention of learned counsel for the petitioner submits that petitioner is not entitled for any further extension or regularization of his services as already a policy decision has been taken by the State to take the said work through outsourcing agency. Petitioner's service was on contractual basis and after the policy of outsourcing, his services cannot be continued in view of policy decision of the State. No right has accrued to the petitioner for getting his services regularized or further extension as it was only due to the policy decision of the State, the services of petitioner along with other similarly situated persons have been terminated. Placing reliance on the Judgment of the Hon'ble Supreme Court reported in (2018)3 SCC 218 in the matter of Yogesh Mahajan Vs. Professor R.C. Deka, Director, All India Institute of Medical Sciences, learned SC-I submits that in absence of right accrued in favour of the contractual employee, case of the petitioner cannot be considered.

6. Be that as it may, having considered rival submission of the parties and considering facts and circumstances for the case, this Court is of the considered view that no interference is warranted in the writ petition. Admittedly petitioner was appointed on contractual basis. No right has accrued to a contractual employee to continue in service. Even petitioner has not filed any representation for consideration of his case for regularization or continuance of his services. It is not case of the petitioner that singly his case has been referred for outsourcing. It is policy decision of the State to take the work through outsourcing agency. Since appointment of the petitioner was not made in accordance with any regular procedure or by following necessary rules, no right accrued for regularization of his services. The Hon'ble Supreme Court in the case of Secretary, State of Karnataka & Others Vs. Uma Devi and others reported in (2006) 4 SCC 1 and other cases has held that contractual employees have no right for regularisation.

7. In the instant case, works which were being performed by the petitioner had

been outsourced by way of policy decision of the State. This Court sitting under Article 226 of the Constitution of India, cannot interfere in the policy decision of the State. It is always in the domain of the State to come out with a policy as to how the employees shall be taken and whether their services will be absorbed or regularized or not.

8. I do not find any merits in this writ petition. This writ petition is accordingly dismissed.