
(2011) 03 JH CK 0140

In the Jharkhand High Court

Case No : Writ Petition (S) No. 7251 of 2006

Shadeo Marandi

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 08-03-2011

Acts Referred:

Constitution of India, 1950 — Article 16, 226

Citation : (2011) 03 JH CK 0140

Hon'ble Judges : J.C.S. Rawat, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

J.C.S. Rawat, J.—This writ petition under Article 226 of the Constitution of India has been filed by the Petitioner seeking issuance of a writ of mandamus directing the Respondents to engage the Petitioner on the post of Jeep Driver as ordered in Memo No. 3630 dated 26.12.2002 issued by the Deputy Commissioner, Bokaro, The Petitioner has further prayed that he may be allowed to continue on the said post.

2. In a nutshell, the Petitioner's case is that the Petitioner had worked as jeep Driver from 1.3.2000 to 1.11.2000 with satisfactory remarks made by the Respondents. Thereafter, he has not been engaged on the said post in spite of his representation and recommendation made by the authority.

3. The case was contested by the Respondents and it was contended on their behalf that the Petitioner has no right to seek mandamus in this writ petition and he further stated that the letter dated 26.12.2002 said to have been issued by the Respondent No. 2, the Deputy Commission Bokaro, is not available in the office record, nor the anchal office record.

4. I have heard learned Counsel for the parties and perused the record.

5. Learned Counsel contended that as he worked from 1.3.2000 to 1.11.2000 as

Jeep Driver and he got certificate from the circle officer and since a new Jeep has been received, the Petitioner should be appointed on the said post.

6. Learned Counsel for the State refuted the contention of the learned Counsel for the Petitioner and contended that the Petitioner has no legal right to claim the post nor is there any corresponding legal duty upon the Respondents to fulfil the right.

7. The appointment of the Petitioner for the period from 1.3.2000 to 1.11.2000 was of a daily wager. In the case of *Secretary, State of Karnataka v. Uma Devi* (3) reported in 2006(IV) SCC 01(para 55), it has been held that a daily wager cannot maintain writ of mandamus for seeking regularisation and because he has no legal right over the post, there is not any corresponding legal duty upon the Respondents to fulfil that right of the Petitioner. In this case also, the Petitioner has no legal right to claim the post. It is also well settled principle of law that even if a person is not appointed and junior to him has been given appointment, he cannot seek mandamus to be appointed on that post. Even the letter of the Deputy Commissioner, which has not been filed, is a mere recommendation and on that basis, Petitioner cannot claim any appointment . Apart from that, the said letter is not on the record. It is also a settled principle of law that a person who seeks employment, should be appointed only by taking recourse to the procedures prescribed in law, as enshrined in the Constitution, The Petitioner cannot claim appointment without taking due recourse to the process of law as envisaged in Article 16 of the Constitution. Thus, I find that the Petitioner has no legal right to maintain this writ petition which is devoid of merit and liable to be dismissed.

8. For the reasons aforesaid, this writ petition is dismissed.