
(2014) 05 JH CK 0005
In the Jharkhand High Court
Case No : WP (S) No. 3661 of 2013

Shambhu Sharma

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 06-05-2014

Acts Referred:

Citation : (2014) 3 JLJR 112

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Prashant Pallav and Arwind Kumar, Advocate for the Appellant;
Vaibhav Kumar, Advocate for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. The petitioners who are 27 in number have sought quashing of an order dated 31st August, 1998, Annexure-3, issued by Director-in-Chief, Health Services, Bihar, Patna, whereby, according to them, their services were terminated. The appointment letter of the years 1989, 1993 and 1995 issued under the signature of Civil Surgeon-cum-Chief Medical Officer, Dumka, have been annexed as Annexure-1 to the writ petition in support of their contention that they were appointed on respective Class-III post of Health Worker in Primary Health Centres in the district of Dumka on daily wages and were absorbed on the said post by the said letter.

2. The petitioners have contended that Annexure-3, which is impugned though does not mention their names, but the petitioners have also been terminated under the same order as allegedly such appointments were made through forged and fabricated appointment letters. The said findings are also indicated in Annexure-3 to the writ petition. The petitioners have also stated that some of the effected persons had been pursuing their cases before the Patna High Court in the writ petition and in Letters Patent Appeal preferred against the same by the State of Bihar, The judgments of which are annexed as Annexures-4 and 5 to the writ petition. It is submitted on the strength of the said Judgments that the termination order of the said petitioners were set aside and they were directed to

be reinstated. Therefore, the petitioners also deserve to be reinstated in service.

3. According to the petitioners, some of the other person had also approached this Court in other writ petition such as W.P.(S) No. 7263 of 2012 in which a direction was given to the respondents to dispose of the representation in accordance with law by passing a speaking order.

4. On behalf of the respondents, a counter affidavit has been filed and it has been stated that after passing of the judgment in some of the other cases of similarly situated employees who were appointed in the Tuberculosis Department by one Dr. A.A. Mallik in wholly, arbitrary, illegal and perverse manner, the matter was considered by the Respondent-State and representation of such persons have been rejected by Annexure-B dated 1st October, 2011 passed by the Director-in-Chief, Health Services, Govt. of Jharkhand. It has been further stated that the opinion of the learned Advocate General was also taken as to whether the said persons could be permitted to join in the Successor State of Jharkhand in view of the judgments passed by the Patna High Court in such cases in 2009. They have made reference to the opinion of the learned Advocate General, Jharkhand that the State of Jharkhand is not bound to accept the joining of the persons in compliance of the order passed by the Patna High Court. Such directions have also been issued by the Health Department to all the concerned Civil Surgeons within the State of Jharkhand. Reference has also been made to similar illegal appointments made in the Leprosy Department which were terminated and thereafter on consideration of the representation of such persons, their claims had also been rejected. The respondents have therefore taken a plea that the appointees of Dr. A.A. Mallik, the then Deputy Director of Tuberculosis have been examined and such illegal appointees have been terminated during the existence of erstwhile State of Bihar taking into account all these facts. Therefore, the claim of such similarly situated persons was also rejected by Annexure-B, as above.

5. I have heard learned counsel for the parties and gone through the relevant materials on record. In the first place, it is apparent that the petitioners allege to have been terminated in the year 1998 after issuance of the order dated 31st August, 1998 itself by the Director-in-Chief, Health Services, Bihar on the grounds that the appointments made at the relevant point of time in the Tuberculosis Department were found to be forged and fabricated. In spite of that the petitioners have moved before this Court after 15 years in the present writ application. A reference has been made to one or other judgments passed by the Patna High Court. Though reference has been made to the order passed by this Court earlier in respect of such employees whose services were terminated in similar manner, but perusal of one such order at Annexure-7 indicates that the respondents were only directed to take a decision in accordance with law.

6. On the other hand, the stand of the respondents as reflected hereinabove, indicates that these appointments were made sometime in 1980s and earlier 1990s by one doctor A.A. Mallik who was the then Deputy Director, Tuberculosis

in an illegal and irregular manner and the services of such illegal appointees were also terminated by the erstwhile State of Bihar. The respondents also appeared to have considered the cases of similarly situated employees upon direction passed in one or other case upon them to dispose of their representation. Upon consideration of such representations pursuant to the direction passed in several cases such as W.P.(S) No. 5629 of 2010; W.P.(S) No. 2336 of 2010; W.P.(S) No. 2396 of 2010; W.P.(S) No. 2589 of 2011; and WP(S) No. 2918 of 2011, the claim for reinstatement of such persons have been rejected by a reasoned order which is enclosed as Annexure-B dated 1st October, 2011 passed by the Director-in-Chief, Health Services, Jharkhand. Therefore, examining the claim of the petitioners from all aspect not only the writ petition is suffering from gross delay and laches as the petitioners have never agitated their cause of action rather sat over the matter till 2013, at the same time the case of similarly situated persons were considered by the respondent authorities of the State of Jharkhand and have been rejected, as aforesaid. Therefore, no grounds for interference in the impugned order is made out. Accordingly, the writ petition is dismissed.