
(2016) 06 JH CK 0102
In the Jharkhand High Court
Case No : W.P. (S) No. 4964 of 2014

Shankar Ram

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 20-06-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 JCR 204

Hon'ble Judges : Mr. H.C. Mishra, J.

Bench : Single Bench

Advocate : Ms. Aprajita Bhardawaj, J.C to A.G, for the Respondents; M/s Dr. S.N. Pathak, Sr. Advocate and Rakesh Kumar Roy, Advocate, for the Petitioners

Final Decision : Dismissed

Judgement

Mr. H.C. Mishra, J. - Heard learned counsel for the petitioners and learned counsel for the respondent State.

2. The petitioners herein have filed this writ application commanding upon the respondents to pay the benefit of ACP to the petitioners from the date of their respective initial appointments as 4th Grade employees in Police Training College, Hazaribag and also for treating the period of services of the petitioners from the date of their initial appointments.

3. The petitioners were appointed on different posts, i.e., Cook, Gardener, Sweeper, etc., and out of 34 petitioners, 14 were engaged in the year 1981, 7 petitioners were engaged in the year 1983 and 13 petitioners were engaged in the year 1984. It is the case of the petitioners that all of them have worked continuously as regular employees till 31.5.1987 and thereafter with some break in service and ultimately, their services were regularised with effect from 29.8.1996.

4. It may be stated that the petitioners were appointed against the posts, which were created by the Inspector General of Police (Director General-cum-Inspector

General of Police), in terms of power under Item No. 24 of Appendix-II of Bihar Police Manual Volume-III, wherein, the Inspector General of Police was vested with the power to create posts for a maximum period of six months and services of the petitioners were extended on expiry of every six months. Regular posts were not created by the State Government, rather, the posts were created by the Inspector General of Police.

5. Similarly situated other persons moved before the Patna High Court, in C.W.J.C. No. 7810 of 1986 with C.W.J.C. No. 5485 of 1989, for regularisation of their services, which were disposed of, by the Division Bench of the Patna High Court by order dated 27th March 1996, as contained in Annexure-1 to this writ application, and taking into consideration the persons, so appointed, who were regularly working, the Patna High Court gave the direction in following terms:-

"Accordingly, I direct the respondent State of Bihar and its authorities to consider the case of the petitioners along with all similarly situated persons for regular appointment in terms with Rule dated 5th March 1948 (Annexure-9) taking into account their respective date of entry in service, if necessary, by making the posts and permanent posts against which the petitioners are performing their duties. Such action is to be taken and necessary order is to be passed by the respondents within a period of two months from the date of receipt/production of copy of this order. It is made clear that the order is to be produced before the Secretary, Home (Police) Department of the State of Bihar with a copy to the Director General of Police-cum-Inspector General of Police."

6. Pursuant to the aforesaid order, the services of the petitioners were regularised with effect from 29.8.1996. The petitioners have filed this application claiming the date of regularisation of their services with effect from the year 1981, 1983 and 1984 with respect to the respective petitioners and to give them benefit of ACP on that basis. The grievance of the similarly situated persons were taken up by the Inspector General of Police, Patna, who by his letter dated 27.7.1997, referred the matter to the Home Department of the State of Bihar, Patna, for taking appropriate decision in the matter, stating therein that if the services of 238 employees, similarly situated to the petitioners, were not regularised, some of them may even be deprived of the right of pension etc. However, it appears that no decision was taken on the said letter. The petitioners continued to raise their claim before the competent authorities claiming ACP from the date of their initial appointments, i.e., with effect from the year 1981, 1983 and 1984 respectively and ultimately, their prayer has been rejected by the respondent No. 6 (Deputy Inspector General of Police, Police Training College, Hazaribag), whereby, they have been informed that the date of regularisation of their services is 29.8.1996 and in view of the extant orders and circulars of the State Government, granting the benefit of ACP from the date of regular services, they can be given the said benefit with effect from 29.8.1996 itself, without taking into account their previous service.

7. Learned counsel for the petitioners has submitted that the petitioners have

been deprived of their due benefits of regularisation of their services with effect from the initial date of their appointments, as also the consequent benefits of ACP, even though the fact is that the petitioners are working since the year 1981, 1983 and 1984 respectively, which they have worked till 31.5.1987 and thereafter with some break in service and ultimately, their services could be regularised only, pursuant to direction of the Patna High Court, as contained in Annexure-1 to the writ application. Learned counsel submitted that in view of the direction of Patna High Court in the aforesaid writ applications, the services of the petitioners ought to have been regularised with effect from the dates of their initial engagements, and not from any subsequent date, and as such, it is a fit case, in which, appropriate direction should be issued to the State Government for treating the services of the petitioners to be regularised with effect from the years 1981, 1983 and 1984 respectively and to give them the benefits of ACP on that basis.

8. Learned counsel for the respondent on the other hand, has opposed the prayer and submitted that according to the scheme of ACP, the benefit ACP is admissible from the date of regular appointment and in that view of the matter, the petitioners can be given the benefit of ACP only with effect from 29.8.1996, when their services have been regularised and not from any prior date.

9. Having heard learned counsels for both the sides and upon going through the record, I find that the petitioners are laying claim for regularisation of their services from the date of initial appointment on the basis of the judgment passed by the Patna High Court on 27th March 1996 in C.W.J.C. No. 7810 of 1988 with C.W.J.C. No. 5485 of 1989, as contained in Annexure-1. In the said writ application, taking into consideration the fact that the persons similarly situated to the petitioners were working on the posts created by the Inspector General of Police, which was extended from time to time, the Patna High Court has only given direction for regularization of their services taking into consideration their past services. There is no direction for any retrospective regularization of the services of those persons from the date of their initial appointments. In that view of the matter, the submission of learned counsel for the petitioners for regularisation of services of the petitioners with effect from the dates of their engagement has no legs to stand. The impugned order shows that taking into consideration the said order of the Patna High Court, the services of the petitioners have been regularized with effect from 29.8.1996 and it has been stated in the impugned order that all the benefits of regular services shall be extended to the petitioners with effect from the said date. I do not find any illegality in the impugned order.

10. There is no merit in this writ application and the same is, accordingly, dismissed.