

(2005) 01 JH CK 0003

In the Jharkhand High Court

Case No : LPA No's. 649 and 658 of 2002

State of Jharkhand and Others

APPELLANT

Vs

Bishwanath Gope and Others and Basant Kumar Baghel

RESPONDENT

Date of Decision : 24-01-2005

Acts Referred:

Citation : (2005) 1 JCR 425

Hon'ble Judges : S.J. Mukhopadhaya, Acting C.J.;Narendra Nath Tiwari, J

Bench : Division Bench

Advocate : H.K. Singh, S.C.I. and C. Prabha, for the Appellant; K.M. Verma, M.M. Sharma, Lakhan Sharma and A.K. Sinha, for the Respondent

Judgement

S.J. Mukhopadhaya, A.C.J.

1. Both these appeals have been preferred by the State of Bihar against common order dated 15th June, 2002 passed by the learned Single Judge in different contempt cases, including Cont. Case (Civil) Nos. 229 of 2002 and 175 of 2002. The learned Single Judge having noticed that the petitioners/ respondents were working on daily wage for the last twenty years, observed that they should not be thrown in the street by passing order of termination and further observed that if there is any technical difficulty in the way of regularisation of their services because of want of sanctioned post, the Chief Conservator of Forest shall approach the State Government for sanctioning the posts so that the persons who have been working for last twenty years, should be given due justice at least after twenty years.

2. In the present appeals, the main plea taken by the appellants State of Jharkhand that the writ petitioners are working in the State Trading Division, such as Saranda State Trading Division, Chaibasa. There is a likelihood that the State Trading Divisions may be closed by the State and there is no post to regularize. As the State Trading Divisions may be closed, the question of creation of further posts in such Divisions does not arise.

3. The Secretary, Forest & Environment Department, Government of Jharkhand was asked to file an affidavit giving the details of Class-IV posts as are lying vacant under the State of Jharkhand in its Forest Department.

In compliance thereto, a detailed affidavit has been filed showing the vacancies. The Secretary, Forest & Environment Department also assisted the Court who submitted that steps have been taken to fill up the Class-IV vacant posts, including the post of Forest Guards on regular basis.

4. From the said affidavit, it appears that 1,333 posts of Forest Guards are vacant under different Divisional Forest Officers. It is informed that those posts will be filled up in near future. Roster clearance will be completed by the end of January, 2005 and appointments will be made thereafter, which may take three months time.

5. It is not in dispute that the State Government vide its Resolution dated 18th June, 1993 have decided to give preference to a daily wage worker over an outsider and, if so necessary, to relax the age, if found overage.

6. In the facts and circumstances, while we modify the order passed by the learned Single Judge relating to creation of posts in State Trading Division, affirm the observations as made by the learned Single Judge that the writ petitioners/respondents should not be thrown out of service after about twenty years, but they should be accommodated against some other vacant posts.

7. In the circumstances, we direct the appellant State of Jharkhand and its officers including the concerned Divisional Forest Officers to give preference to daily wagers like the writ petitioners/Respondents over outsiders, as and when Class-IV posts including the post of Forest Guards are filled up in near future and to give them age relaxation, if they are found over-age. However, this direction will be limited to only those daily wage workmen/employees who are still working under the State Government and not to those who have already been retrenched/not in service.

If so necessary, the Divisional Forest Officers in their advertisement will mention that the daily wage employees will be given preference over outsiders, if they are equally situated and age relaxation may be given in their case, if found over-age.

8. The order passed by the learned Single Judge is modified to the extent above.

9. Both the appeals stand disposed of with the aforesaid observations and directions.

N.N. Tiwari, J.

10. I agree.