
(2000) 06 PAT CK 0007
In the Patna High Court
Case No : C.W.J.C No. 565 of 1999

Sudhir Prasad Singh and Others

APPELLANT

Vs

Rajendra Agriculture University and Others

RESPONDENT

Date of Decision : 26-06-2000

Acts Referred:

Citation : (2000) 3 PLJR 765

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Mihir Kr. Jha and M.K. Shah, for the Appellant; Y.V. Giri and Jyoti Saran for University, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—The writ petition was preferred by Petitioners, Sudhir Prasad Singh, Birendra Singh and Onkar Nath Jha for direction on the Respondents to consider their cases for regular appointment against non-teaching posts, as advertised by Advertisement Nos. 6/98, 8/98 and 9/98 by treating them as casual employees of the Rajendra Agriculture University (University for short) and giving them the weightage in terms with decision of the Supreme Court dated 18.2.1998 passed in the case of Ram Kumar Sharma and Ors. v. Rajendra Agriculture University and Ors. [S.L.P. (Civil) No. 18594/94] and analogous cases.

2. The admitted fact shows that the Petitioners are working under the University and are not regular employees.

While first Petitioner, Sudhir Prasad Singh holds qualification of B.Sc. (Agriculture), was initially engaged to function as Research Fellow. He worked in that capacity for the period from 12.3.1984 to 18.12.1992 and then in the capacity of Helper from 19.12.1992 to 31.3.1998 and then as Technical Assistant from 15.5.1998 onwards. Initially, he was paid fixed wages of Rs. 600/ - per month for first two years followed by Rs. 700/ - per month as Research Fellow.

Subsequently, he was paid fixed wages @ Rs. 900/ - and Rs. 1400/ - per month while functioning as Helper and technical assistant respectively.

The second Petitioner, Birendra Singh is B.Sc. (Agriculture) and was engaged as Field Investigator on 23.2.1987 and worked till 4.5.1989 on the fixed wages of Rs. 1000/ - per month. Since 1.5.1990 he is working as Research Fellow on fixed wages of Rs. 1550/ - Rs. 1500/ - per month.

The third Petitioner, Onkar Nath Jha is M.Sc. (Ag.) and was engaged as Field Investigator on 4.6.1990 till 31.5.1995 when he was paid fixed wages of Rs. 1600/ - per month/Rs. 1550/ - per month. Subsequently, he worked as Research Associate for the period from 1.6.1995 to 31.7.1996 in the prescribed scale of Rs. 3300-3700/ - but since 1.8.1996 he is working as Field Investigator on the fixed wages of Rs. 3000/ - per month.

The places of posting of these Petitioners under the University and other details have been shown in the writ petition.

It appears that the casual employees of the Universities had to move upto the Supreme Court for regularisation of their services, in SLP (civil) No. 18594/94 (Ram Kumar Sharma and Ors. v. Rajendra Agriculture University and Ors.) and other cases, including writ petition (civil) No. 43/96. In those cases, the

Supreme Court taking into consideration the problems faced by the employees passed certain direction for regularisation of services of casual employees, as quoted hereunder:

.... In the special facts of the case, it appears to us that it will be only proper and consistent with the justice that the regularisation of the casual employees of the Rajendra Agriculture University should be made in the following manner:

So far as class IV posts are concerned, regular appointment against available vacancies for regular sanctioned posts under the Bihar State Agricultural Universities Act, should be made by appointing the casual employees who have worked in the Rajendra Agriculture University for more than 15 years against 35% of available vacancies provided such employees have requisite qualification for regular appointment and they are also physically fit for permanent absorption. In respect of balance 65% vacancies invitation of applications by open advertisement by following the usual Procedure for filling up the vacancy in the University services should be made. The casual employees of the Rajendra Agriculture University who will not be absorbed against 35% reserved quota as indicated hereinbefore, will be entitled to apply for the said 65% posts. The following criteria will be followed for selection against the 65% posts. For each year of completed service of the casual employees, 2% marks will be given for their experience upto the maximum of 30%. For educational and other qualification as laid down in the advertisement 50% marks would be given and 20% marks will be allotted on the basis of performance in the interview. It is clarified that for the casual employees year of completed service will mean, by

ignoring artificial breaks, 240 days of service in a year. There will be relaxation of age upto 50 years in the case of casual employees serving the Rajendra Agriculture University in the State of Bihar and appointment will be given provided such employees are physically fit for regular absorption.

The same principle will also be followed for filling up the class III posts after giving the same relaxation of age. The casual employees who will not be absorbed either against 35% of reserved quota or balance 65% vacancies as indicated above will be disengaged from the services after exercise of selection process is completed. Such exercise should be taken up as early as practicable and the selection process should be completed within a period of six months from today.

All the special leave petitions are disposed of accordingly. There will be no order as to costs.

After the aforesaid decision, the University came out with the Advertisement Nos. 6/98, 8/98 and 9/98 in pursuance of which the Petitioners applied but they having not called to appear in the written test, had to prefer this writ petition.

3. On 18.1.1999, a Bench of this Court passed interim order allowing the Petitioners to appear in the ongoing examination but result was not allowed to publish without obtaining prior order of the Court. The Petitioners in pursuance of interim order appeared in the respective examination for appointment against non-teaching posts of which results have been produced by the counsel for the University before this Court in pursuance of subsequent direction.

4. The sole objection raised by the University in not allowing the Petitioners to appear in the examination is that the Petitioners are not "casual employees", being employees engaged on fixed wages. It is for the said reason, when the result sheets of the Petitioners produced, therein no marks given towards experience of the Petitioners in terms with the decision and direction of the Supreme Court.

5. According to Mr. Y.V. Giri, Senior Counsel for the University, the employees engaged on daily wage/muster roll are "casual employees" and none others, including employees appointed on fixed wages. On the other hand, according to counsel for the Petitioner, those other than regular employees, whose nature of appointment is precarious, temporary in nature, all of them come within the definition of "casual employees", including the Petitioners, having engaged on fixed wages.

6. There is no specific definition of "casual employee" laid down under law or by a court of law. In the case of Commissioner of Income Tax, Punjab, Jammu and Kashmir and Himachal Pradesh, Patiala Vs. Dr. Sham Lal Narula, Patiala, , the Court held the word "casual" as an antonym for "regular" in the sense that something happened at uncertain time. "Casual employment" as defined in "Law Lexicon" is employment which is not, regular or continuous. It is employment for

short periods or for limited or temporary purpose.

The dictionary meaning of "casual" (Chambers English Dictionary) is accidental, unforeseen; occasional; off-hand; negligent; unceremonious (of a worker) employed only for a short time, without fixed employment. The definition of "casual labour" given therein is the worker without fixed employment.

7. The question of regularisation of services of casual employees also fell for consideration before the Supreme Court in the case of State of Haryana and others Vs. Piara Singh and others etc. etc., . Therein the Court took into consideration the concept of adhoc employees, work charge employees, casual workers, daily rate employees and temporary employees and after dealing the circulars of Government of India and scheme, held that the same includes all such employees who are not regular.

The definition of "employees" has been laid down under the Rajendra Agricultural University, Bihar Statutes, which mean "whole time employees", other than part time employees, honorary employees or those paid from contingencies.

Thus, the "casual employee" not only means daily wage employee/muster roll employee but also includes other employees who are not regular; whose employment is for short period or for limited/temporary purpose, including the adhoc employees, employees engaged on fixed wages and those who are being paid from contingencies.

8. In the circumstances, the Petitioners having engaged by way of stop-gap arrangement, on fixed wages to perform duty of one or other post under the University and not being regular employees, they are entitled to the benefits of casual employees in terms with the direction of the Supreme Court dated 18.2.1998 passed in SLP (Civil) No. 18594/94. They are also entitled for marks for their experience, in terms with the aforesaid direction of the Supreme Court for the period they have performed such duty.

9. From the result produced by the University, it appears that the Petitioners, Sudhir Prasad Singh, Birendra Singh and Onkar Nath Jha appeared in the examination for appointment to the posts of Field Overseers, whereas, Petitioners Birendra Singh and Onkar Nath Jha also appeared for the posts of Assistant. They have been provided with 50 marks each for educational qualification and 13.5/12.5 and 11.5 marks respectively in the written test. The cut-off marks of 81 upto which candidates have been appointed to the posts of Field Overseers whereas candidates upto 84 marks have been appointed to the posts of Assistant. If marks towards experience is included, atleast Petitioners, Sudhir Prasad Singh and Birendra Singh come within the zone of consideration for appointment to the posts of Field Overseer, as it comes to more than 81 marks (but less than 84), which is the cut-off marks upto which appointment have been made against the posts of Field Overseer. Thereby, I hold that the Petitioners, Sudhir Prasad Singh and Birendra Singh are entitled for appointment to the posts of Field Overseers in pursuance of examination in question in which

they appeared and passed.

10. Accordingly, I direct the Respondents to provide the Petitioners with points for their experience and thereby to give appointment to the Petitioners, Sudhir Prasad Singh and Birendra Singh to the posts of Field Overseer, immediately but not later than a period of one month from the date of receipt/production of a copy of this order. Their position in the merit list be corrected and placed accordingly, which would be the basis on which they can claim seniority.

11. The writ petition is thus allowed so far as Petitioners, Sudhir Prasad Singh and Birendra Singh are concerned but no specific relief can be granted in favour of Petitioner, Onkar Nath Jha, who may take chance in pursuance of some other selection.