

(2006) 07 JH CK 0023
In the Jharkhand High Court

Surendra Prasad Shrivastava

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-07-2006

Acts Referred:

Citation : (2006) 4 JCR 582

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Judgement

Permod Kohli, J.—Petitioner was engaged on 29th April, 1982 as Officiating Godown Watchman in Minor Irrigation Division at Koderma. He has filed this petition seeking regularization on the basis of his continuous engagement.

2. In the counter affidavit filed, it is stated that petitioner is an eligible daily wager. His name figures at Sl. No. 541 of the list prepared for consideration for regularization.

3. In so far the issue of regularization of employees is concerned, it has been finally settled by a Constitution Bench of the Apex Court in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, . Relevant observations of the Apex Court are contained in para 53 of the judgment which deals with the case of the petitioner. The said paragraph is noted hereunder:

53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa. R.N. Nanjundappa and B.N. Nagarajan and referred to in para 15 above of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the interventions of orders of the Courts or of Tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize

as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the Courts or of Tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub-judice need not be reopened based on this judgment but there should be no further by passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.

4. In view of the direction of the Apex Court in the judgment (*supra*), cases of all irregular appointees, who had completed ten years or above, are required to be considered.

5. In view of the above-circumstances, let case of petitioner be considered by a duly constituted Committee in accordance with the direction of the Apex Court.

6. Let process of consideration be completed within a period of six months and consequential order passed.

Accordingly, this petition stands disposed of.