

(2013) 12 JH CK 0039

In the Jharkhand High Court

Case No : Cont. (C) Case No. 315 of 2013

Tej Narayan Singh and Nand Kumar Singh

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 20-12-2013

Acts Referred:

Citation : (2013) 12 JH CK 0039

Hon'ble Judges : R. Banumathi, C.J.;Aparesh Kumar Singh, J

Bench : Division Bench

Advocate : D.K. Dubey and R.K. Singh, for the Appellant; Sumeet Gadodia, for the Respondent

Judgement

1. These two petitioners preferred this contempt petition alleging violation of the order dated 10th October 2012 passed in Cont. (C) Case No. 252/2011, which arose out of the judgment and order dated 14th May, 2003 passed in L.P.A. No. 15/2000 and L.P.A. No. 308/2001. The petitioners claimed to have been serving under the respondent-State Tourism Development Corporation Limited, as daily wager since 28.5.1983 and 18.12.1982 respectively. They had initially approached the Patna High Court in CWJC No. 1303/1999R, which was disposed of by the judgment dated 3rd May, 2001, with the direction upon the respondents to regularize the services of the petitioner. The respondent-Corporation thereafter chose to prefer appeal, being L.P.A. No. 15/2000 and L.P.A. No. 308/2001, being aggrieved by such direction. Those appeals were disposed of by a common judgment dated 14th May, 2003, with a direction to the respondent-Corporation to take immediate step, in the facts and circumstances of the case, to evolve a scheme for regularization of the services of the writ petitioners on the posts for which they were eligible along with others, who were entitled to apply for, as and when such recruitment arose and consider their claim on merit and in accordance with Rules along with all eligible candidates as early as possible.

2. The respondents, however, did not act in terms of the direction passed in

L.P.A. No. 15/2000 and L.P.A. No. 308/2001 and gave the petitioners an occasion to prefer the earlier contempt petition being Cont. (C) Case No. 252/2011. In the said contempt petition, the respondents, due to passing of the interim orders, came out with a regularization scheme to take steps for regularization of such daily wagers and contractual laborers including these petitioners. The said contempt petition was accordingly disposed of with the observation and liberty to the petitioners to question the scheme and also to get the relief under the regularization scheme itself. The present contempt petition has thereafter been preferred alleging once again disobedience of the judgment passed in L.P.A. No. 15/2000 and L.P.A. No. 308/2001 as was alleged in the earlier contempt petition.

3. During the pendency of the instant contempt petition, the respondents/opp. parties have undertaken exercise under the regularization scheme to regularize certain daily wagers/contractual laborers working with the Corporation against 14 number of sanctioned posts for different grades. As a result of such exercise, petitioner No. 2, Nand Kumar Singh, had been conferred appointment and was provisionally appointed. However, respondents/opp. Parties have stated that the petitioner No. 1, Tej Narayan Singh, failed to qualify in the written test and interview amongst other candidates, who had participated and therefore, he could not be appointed as such on regular basis in terms of the scheme. The petitioner No. 1 alleges that the judgment passed earlier in L.P.A. No. 15/2000 and L.P.A. No. 308/2001 remained uncompleted deliberately on the part of the respondents. Learned counsel appearing for the respondents/opp. parties submits that bare perusal of the judgment passed in L.P.A. No. 15/2000 and L.P.A. No. 308/2001, from which earlier contempt petition arose, would indicate that the case of the petitioners were to be considered along with all eligible candidates in accordance Rules and scheme evolved by them against the sanctioned posts.

4. The exercise that has been conducted has revealed that the petitioner No. 1 did not qualify for selection under the said scheme and he scored lesser marks than that of other candidates. In such circumstances, it cannot be alleged that there has been deliberate disobedience of the judgment and order passed by this Court.

5. We have heard learned counsel for the parties and gone through the relevant materials on record including the regularization scheme, which has been framed. From perusal of the scheme, it appears that the respondents had provided marks for written test and interview with 60 and 40 marks respectively and the persons, who were working as daily wagers/contractual laborers under the respondents, were given preference by allowing 5 marks for each completed year of service upto 40 marks, which was treated to be the part of the written test. The result of the aforesaid selection exercise, which was annexed to the first show cause, does reveal that while the petitioner No. 2, Nand Kumar Singh, scored the highest marks in the category of Receptionist-cum-Manager, the petitioner No. 1, Tej Narayan Singly who applied for the post of House-Keeper-

cum-Room Attendant, failed to score the highest marks among the general category candidates. This may be the reason for the petitioner No. 1 to be aggrieved by the selection process and thus, he cannot allege that it amounts to deliberate disobedience of the directions passed by this Court earlier. In such circumstances, we, therefore, find that no case is made out for initiation of the contempt proceeding against the respondents/opp. parties herein on the ground of alleged deliberate disobedience of the judgment dated 14th May, 2003, passed in L.P.A. No. 15/2000 and L.P.A. No. 308/2091 and the orders dated 10th October, 2012 passed in earlier Cont. (C) Case No. 252/2011. However, if the petitioner No. 1 is aggrieved by the selection process, he is at liberty to challenge the same in accordance with law before the appropriate forum. Accordingly the contempt proceeding is dropped and rule discharged.