

(2015) 07 JH CK 0009

In the Jharkhand High Court

Case No : Writ Petition (S) Nos. 1341, 2189, 2299, 2424 and 4990 of 2013

Umesh Kumar Shukla and Others

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 08-07-2015

Acts Referred:

Citation : (2015) 07 JH CK 0009

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Prem Pujari Roy, for the Appellant; Nehala Sharmin, J.C. to Sr. S.C.II, Dhananjay Kumar Dubey, Sr. S.C.I, J.C. to S.C.II and J.C. to S.C.I, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Aparesh Kumar Singh, J.

1. Heard learned counsel for the parties.
2. Essentially the claim of all these petitioners are for regularization in service on the strength of their claim that they have been discharging duties as daily wage employee for more than 10 years under the District of Palamau in different Offices. Petitioners in W.P.S. No. 2189 of 2013 and W.P.S. No. 4990 of 2013 had earlier also approached this Court and pursuant to the direction issued in their respective writ petitions upon the concerned respondents, their representation for grant of regularization has been rejected by the order impugned in respective two writ petitions.
3. However, learned counsel for the petitioners in all these cases submitted that though the order of rejection in the aforesaid two cases was based upon the circular of 18.6.1993, which stipulates that the daily wage employee should have been in engagement for 240 days from prior to 1.8.1985 i.e. the cut off date and that the said employee had not fulfilled the said condition but in view of the subsequent development which have taken place there after, petitioners' case

should be considered again in the light of the Regularization Rules framed by the Government of Jharkhand, Department of Personnel, Administrative Reforms and Rajbhasha vide notification dated 13.2.2015. The notification has been produced on behalf of the parties.

4. Learned Senior Standing Counsel No. I submits that keeping into regard the direction of the Hon'ble Supreme Court in the case of State of Karnataka and others Vrs. Uma Devi and others reported in (2006) 4 SCC 01 as also the direction passed in one or the other writ petitions based upon the said ratio by this Court also, the State Government has framed the Regularization Rules for consideration of the cases of such daily wage/temporary employees who have been engaged for 10 years by the cut off date i.e. 10.4.2006, which is the date of judgment rendered in the case of State of Karnataka and others Vrs. Uma Devi and others (Supra) by the Apex Court. Further conditions are also prescribed in the said Rules which are required to be satisfied by any such applicant. It is submitted that the Rules stipulates constitution of Committee at various level for consideration of cases of such persons who were in daily wage engagement for 10 years prior to the cut off date and in line with the conditions imposed therein under the Rules. It is submitted that the individual petitioners should therefore make their claim afresh by filing a representation duly supported with necessary facts and documents before the competent authority, so that, if they satisfied the conditions imposed under the Rules of 2015, matter may be scrutinized by the duly constituted Committee and a decision can be taken in accordance with law in the matter of their regularization.

5. Having noticed the relevant materials borne out from the stand of the respective parties in the instant writ petitions, it appears that the writ petitions were preferred for seeking regularization of service on the strength of the claim that petitioners have been working for more than 10 years. However, in view of the subsequent development that have taken place by framing of Regularization Rules, 2015, at this stage, it appears that the case of the individual petitioner is required to be considered by the competent authority in accordance with the said Rules. Therefore, it is deemed appropriate to allow the petitioners liberty to approach the competent authority under the District of Palamau for consideration of their claim in terms of the 2015 Regularization Rules by filing fresh representation duly supported with all the necessary facts and documents. On receipt of such representation, the competent authority i.e. the respondent-Deputy Commissioner, Palamau would consider the same and as required under the 2015 Rules, place the matter before the duly constituted Committee for its scrutiny and for taking informed decision in the case of individual petitioners. Since, the Rule mandate the said exercise to be completed within stipulated time, as prescribed under Rule 3(kha)(viii), it is expected that the concerned Respondents shall accord due consideration to the claim of individual petitioners in accordance with law within a reasonable time.

6. However, it is made clear that observation made herein above shall not be

treated as comment on the merit of the claim of the petitioners. It is also made clear that the impugned orders passed in W.P.S. No. 2189 of 2013 and W.P.S. No. 4990 of 2013 shall not come in the way of the respondent to reconsider the claim of the said petitioners.

7. All these writ petitions are disposed of accordingly.