

(2005) 02 PAT CK 0076

In the Patna High Court

Case No : C.W.J.C. No's. 9158 and 9851 of 2001

Yogendra Thakur and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 14-02-2005

Acts Referred:

Citation : (2005) 1 BLJR 704 : (2005) 2 PLJR 188

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Banwari Sharma and R.N. Mukhopadhaya, for the Appellant; JC to GP 4, for the Respondent

Judgement

Narayan Roy, J.—Heard counsel for the parties

2. Both these writ applications since involve common questions of facts and law, the same have been heard together and are being disposed of by this order.

3. The petitioners have prayed for issuance of direction upon the respondents to regularise their services on Class IV posts.

4. It is admitted fact that most of the petitioners are still working on daily wage basis.

5. Learned counsel for the petitioners submitted that several posts of Class IV employees are lying vacant even after bifurcation of the State of Jharkhand and though the petitioners are working on daily wages, they are not being considered for their regularisation. It is further submitted that clear facts are not being brought on record by the respondents and they are not identifying the actual vacant posts of Class IV employees. It is further submitted that similarly situated persons are working on daily wages and this Court directed the authorities to frame scheme for absorption/regularisation of services of daily wage workers on Class IV posts.

6. Pursuant to order of this Court, the respondent authorities came out with a

scheme dated 18th March, 1998. From the scheme, as formulated by the State Government, it would be manifest that necessary directions were issued to the concerned authority to carefully examine and consider the cases of daily wage workers for their regularisation strictly in accordance with law and the scheme, as referred to above, but till date the scheme has not been implemented and the petitioners are till date working on daily wages.

7. From the counter affidavit filed on behalf of the respondents, it appears that some of the posts are available, which would be filled up in accordance with law.

8. Learned counsel for the petitioners, on the contrary, submitted that actual number of posts have not been identified and according to them, altogether 276 Class IV posts are lying vacant and the same are not being filled up from amongst the daily wage workers like the petitioners.

9. This fact, however, would be manifest from, Annexure 51 to C.W.J.C. No. 9158 of 2001.

10. This Court, vide order dated 25.1.2005, had directed the Principal Chief Conservator of Forest and Environment Department, Government of Bihar, Patna, to put in affidavit disclosing the exact number of Class IV vacancies in Forest Extension Division, Patna and Sanjay Gandhi Biological Park, Patna.

11. Pursuant to aforesaid order, an affidavit has been filed on behalf of the Principal Chief Conservator, Government of Bihar, Patna, wherein it is stated that as against the existing 26 vacancies, the Government has taken decision to retain only 12 posts of Forest Guard and with regard to other than Forest Guards, the affidavit is silent.

12. In view of the controversy raised in this application as to the exact number of vacancies of Class IV posts, in my opinion, this Court feels difficulty in deciding the questions involved on the basis of the materials brought on record.

13. Under the circumstances, respondent No. 1, Forest and Environment Department, Government of Bihar, Patna, is directed to consider the cases of the petitioners for their regularisation keeping in view the exact number of Class IV vacancies in the existing State of Bihar after coming into force of the Bihar Reorganisation Act, 2000. The respondent Secretary aforesaid, at the same time, shall keep in view the scheme framed by it for regularisation and thus, on totality of the fact, he will take decision in the matter in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

14. With the direction/observation aforesaid, these applications are disposed of.