
(2007) 04 JH CK 0074
In the Jharkhand High Court

Yogendra Yadav and Others

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 19-04-2007

Acts Referred:

Industrial Disputes Act, 1947 — Section 25F

Citation : (2007) 4 JCR 204

Hon'ble Judges : M. Karpaga Vinayagam, C.J;Permod Kohli, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Permod Kohli, J.—The appellants were engaged as daily wagers by the then State of Bihar. Earlier they filed C.W.J.C. No. 4865 of 1988 (R), seeking their regularization. This writ petition was dismissed as withdrawn on 26th August, 1988. Thereafter, the appellants herein preferred second writ petition being C.W.J.C. No. 2352 of 1995, seeking same relief of regularization. During pendency of the writ petition, the respondents dispensed with the services of the appellants due to paucity of fund by issuing fresh notice dated 22nd January, 1996, asking them to receive the arrears and compensation, legally payable u/s 25F of the Industrial Disputes Act. The appellants, accordingly, filed I.A. No. 1418 of 2004 for amendment of the writ petition, which was allowed. The learned single Judge has dismissed the writ petition, filed by the appellants, on two grounds; (i) the earlier writ petition having been withdrawn without liberty, second writ petition is barred and (ii) the petitioners' initial appointment being illegal, they are not entitled to the benefit of regularization in view of Constitution Bench judgment of the Apex Court in the case of Secretary, State of Karnataka and Others Vs. Umadevi and Others, .

2. Mrs. Pal, learned Counsel appearing for the appellants, has vehemently argued that these appellants along with 40 other daily wagers were notified for termination simultaneously and those other 40 daily wagers approached the Labour Court for reinstatement and regularization of their services. The Labour

Court granted them the relief and the award of the Labour Court has been upheld up to the Supreme Court. These appellants being similarly situated to those 40 daily wagers are also entitled to the same relief.

3. It is not in dispute that services of 40 daily wagers have been regularized pursuant to the award of the Labour court, which was upheld up to the Supreme Court. It is also not in dispute that these appellant had approached this Court, seeking their regularization and later withdrew the writ petition, without seeking any liberty to approach this Court again. The writ petition was dismissed as withdrawn on 26th August, 1988. The second writ petition for the same relief on the same cause of action is not maintainable. The appellants also can not claim parity with those 40 other daily wagers, as they were regularized in implementation of the award, which was upheld by the Apex Court, which the respondent-State is bound to do. The appellants were not party to the said award and, thus, cannot claim any relief on the ground of parity. Otherwise also, the initial engagement of these appellants being illegal, without adopting any clue procedure of law, they are not entitled to be regularized in view of the judgment of the Apex Court in the case of Secretary, State of Karnataka (supra). The learned Single Judge has rightly declined the relief in favour of the appellant. We also find no merit in this appeal, which is, accordingly, dismissed.