

Patna High Court

Rohan Singh Yadav @ Rohan Singh vs Bihar State Housing Board And Ors. on 25 June, 2002

Equivalent citations: 2002 (50) BLJR 1541, (2002) IIILLJ 183 Pat

Bench: N Rai, R Garg

JUDGMENT Nagendra Rai and R.S. Garg, JJ.

1. The petitioner being aggrieved by order dated May 14, 2002 passed C.W.J.C No. 6004/2002 dismissing the writ application has filed this appeal under Clause 10 of Letters Patent Appeal. From the records it appears that matter relating to regularisation of the daily wage employees working in the Board for long years was taken up by the Supreme Court in Civil Appeal No. 766 of 1988. The Appeal was finally disposed of on February 13, 1991 with the direction that the Board shall take 257 workers in its Workcharge Establishment who upto that date were working on daily wages. In relation to number of others, the Supreme Court refused to make any direction, as from the material available on record, the Supreme Court was satisfied that the Workcharge Establishment of the Board did not have scope to provide regular work for them. In accordance with the directions of the Supreme Court, the Board took certain workers in its Workcharge Establishment but as all the 257 workers were not absorbed under one pretext or the other, M.J.C. No. 1354 of 2001 came to be filed with the prayer that the Board officers be punished under the provisions of Contempt of Courts Act. While finally disposing of the said M.J.C. No. 1354/2001, on May 1, 2002 this Court ordered that the Board could not refuse to implement the Supreme Court's order, this Court directed the Board to issue necessary orders within a week from the date of the said order. Following the said order the impugned office order was issued and the petitioner and number of others have been removed from the services. It appears that vide Annexure-7 (Memo No. 1631 dated May 8, 2002) certain persons (daily wage employees) were taken in the Workcharge Establishment but the petitioner was not included in the said list and was counted out.

2. It was contended by the petitioner that the petitioner was working as Majdoor Coolie and the respondents wrongly showed him as Chaukidar before the Supreme Court therefore, the petitioner is entitled to be absorbed or regularised in the Workcharge Establishment. Placing reliance upon certain documents it is contended that the petitioner worked as a Majdoor Coolie from 1980 to 1983 but thereafter he was given a different designation though in the year 1991 he was regularised as a Majdoor Coolie. It is contended that the respondents in fact did not place the correct facts before the Supreme Court. It is further contended that every person, who was working as Majdoor Coolie was entitled to be absorbed in the Workcharge Establishment.

3. Contending contrary to the said argument it is contended by the respondents that the petitioner might have worked as Majdoor Coolie for a short period of three years but worked as Chaukidar for eight long years, therefore, the respondents did not mislead the Supreme Court and placed the correct facts before the Apex Court. It is further contended that due to some inadvertence the petitioner was regularised as Majdoor Coolie in the year 1991 while in fact from the records it would clearly appear that the petitioner was working as the Chaukidar since after 1983. It is lastly contended that if the Supreme Court has declined the relief in favour of the petitioner on an earlier occasion then any person other than those 257 persons would not be entitled to any relief from this Court.

4. We have heard the parties at length.

5. Undisputedly in Civil Appeal No. 766/1991 (arising out of S.L.P. (Civil) No. 11538/1988), the Supreme Court observed that it was satisfied on the material placed that 257 daily wage workers were entitled to be regularised in the Workcharge Establishment as per the chart enclosed to the letter dated June 30, 1990. The Supreme Court observed and directed that the Housing Board shall regularise the services of those 257 workers in its Workcharge Establishment and those 257 workers shall cease to be daily wage workers with effect from September 19, 1990. The Supreme Court clearly observed that so far as the remaining appellants were concerned, the Supreme Court was giving no directions as from the material on record the Court was satisfied that the Workcharge Establishment of the Board did not have scope to provide regular work for them.

6. From the order of the Supreme Court it is manifestly clear that only 257 workers shown in the chart enclosed to the letter dated June 30, 1990 were to be regularised in Workcharge Establishment of the Housing Board. The petitioner was not shown in the said list. The case of the petitioner now is that his name was not included in the list, therefore he is entitled to the relief. In our opinion the petitioner cannot be allowed to raise this stand at this stage. When the list of the persons was submitted before the Supreme Court then the petitioner was required to bring to the notice of the Apex Court that he was a Majdoor Coolie or a daily wager and as such was required to be regularised in the Workcharge Establishment. At this stage no direction can be issued by this Court because the matter has already been concluded by the Supreme Court. Any direction by us in favour of the petitioner would run contrary to the orders passed by the Supreme Court. The Supreme Court has clearly observed that persons beyond 257 persons cannot be regularised by the Housing Board.

7. The learned single Judge was certainly justified in refusing to interfere in the matter.

8. We find no reason to interfere. The appeal is dismissed.