

Jharkhand High Court

Rana Pratap Singh vs The State Of Jharkhand And Ors. on 12 February, 2008

Equivalent citations: 2008 (2) JCR 134 Jhr

Author: R Merathia

Bench: R Merathia

JUDGMENT R.K. Merathia, J.

1. Heard the parties finally.

2. Petitioner has prayed for a direction to pay his arrears of wages/salary amounting to Rs. 61,433.10 for the period 1.8.1998 to 30.9.2001 calculated in letter dated 9.11.2001 (Annexure 17) and also further wages from 1.10.2001 to 18.6.2002. Petitioner has further prayed for quashing the order of his termination; and for his regularization in view of circular of Government of Bihar dated 18.6.1993 and several orders by this Court from time to time.

3. The stand of the respondents is that the work in the Stale Trading Division of the Forest Department was temporary and seasonal in nature and therefore, the daily wagers including the petitioner were engaged as per requirement. Petitioner was not engaged against any sanctioned post. The work of the Division re diced specially in view of the ban on felling trees. It started suffering losses and it became difficult to sustain tie daily wagers. It was on the verge of closure. It is further submitted that the said circular dated 18.6.1993 is not applicable to such daily wagers in view of Annexures B and C. It is further submitted that now in view of the Supreme Court Judgments, neither this Court should issue direction for regularization, not such circular of Government will have any force. However, it is submitted that so far as the arrears of wages is concerned, the same will be paid, if due and not already paid.

4. In view of the Constitution Bench Judgment (2006) 4 SCC 1 The Secretary, State of Karnataka v. Uma Devi, now no direction can be issued in his writ petition to consider petitioner's case for regularization. Therefore, the earlier orders passed by this Court is of no help to the petitioner. The grievance of the petitioner, that before termination, opportunity of hearing should have been given to him also cannot be accepted. In view of the aforesaid facts and circumstances, the Division had to disengage the daily wagers as a matter of policy. Moreover, it has been held by the Supreme Court in the Case of Uma Devi (Supra) that daily wagers have no right over post aid therefore it was not necessary to give opportunity of hearing, before disengaging him. It has been further held in Paragraph 16 of (2006) 4 SCC 430 R.S. Garg, etc. that even the Government cannot make rules or issue any executive instruction by way of regularization. Therefore, the said circular dated 18.6.1993, is also of no help.

5. In the circumstances, it cannot be said that respondents were not justified in disengaging the daily wagers including the petitioner. However, so far as arrear of wages is concerned, it appears from Annexure 17 that an amount of Rs. 61,433.10 was found due to petitioner for the period 1.8.1998 to 30.9.2001. Petitioner claims that he worked thereafter also up to 18.3.2002.

6. Accordingly, the petitioner is given liberty to make a representation before the Conservator of Forest, State Trading Division, Singhbhum Circle, Chaibasa (respondent No. 7), who will find out whether petitioner is entitled to any further amount between 1.10.20C1 to 31.3.2002 and will see that petitioner is paid the arrear of wages due to him if not already paid, as early as possible and preferably, within two months from the date of receipt of such representation.

With these observations and directions, this writ petition is disposed of. No costs.