

**Pawan Kumar Jha Vs. the Union of India (Uoi) and ors.**

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**Court :** Patna

**Decided On :** Oct-30-2002

**Judge :** Chandramauli Kr. Prasad, J.

**Appeal No. :** M.J.C. No. 1662 of 2000

**Appellant :** Pawan Kumar Jha

**Respondent :** The Union of India (Uoi) and ors.

**Judgement :**

**Chandramauli Kr. Prasad, J.**

1. Petitioner filed C.W.J.C. No. 7825 of 1992 Pawan Kumar Jha v. The Union of India and Ors. Inter alia, praying for issuance of a writ in the nature of mandamus commanding Bharat Petroleum Corporation Ltd. to appoint/absorb him to the post of general workman/general operating staff in any of the depots of the Corporation. Said writ application came up for consideration before this Court and by order dated 26.7.1995, was disposed of in the following words:

Having heard the parties, I hold that no writ can be issued at this stage for regular appointment of the petitioner to the post of general work-man there being no such post lying vacant under the respondent Corporation. However, I observe that whenever a regular post of general work-man or equivalent post will fall vacant at Katihar, respondents will consider the case of the petitioner for such appointment

in terms with Section 25H of the Industrial Disputes Act 1947. I further make it clear that if the respondents take work by way of stop-gap arrangement, with respect to the said post, in that case, they will give preference to the petitioner over the persons who have not yet been selected at the time of regular appointment. If the petitioner becomes over age, it is desirable that the respondents shall consider the case of the petitioner for relaxation of his age bar.

2. Complaining non-compliance of the aforesaid order, this application has been filed. It has been stated that although regular post of general work-man exists but the petitioner has not been appointed to the said post. His assertion further is that opposite parties are not taking work by way of stop gap arrangement also although he is willing to work as such.

3. Show cause has been filed on behalf of opposite party in which it has been stated that the opposite parties do not intend to create vacancy to accommodate the petitioner which does not exists. However, in the show cause, nothing has been stated as to why the petitioner was, not given the work by way of stop gap arrangement as directed by this Court while disposing of the writ application.

4. Mr. Ganesh Prasad Singh, learned Senior Advocate appearing on behalf of the petitioner submits that the post of general work-man/general operating staff exists and the opposite parties having not regularized the services of the petitioner, have exposed themselves for punishment of committing contempt of this Court.

5. From the show cause, it seems that the opposite parties do not intend to fill up the post and on that account, non-consideration of the case of the petitioner cannot be said to be in breach of the order of this Court.

6. Mr. Singh then contends that in any view of the matter, the opposite parties ought to have taken work by way of stop gap arrangement. From the representations of the petitioner (Annexures-2 & 3 series), it seems that he had prayed for his appointment on leave or casual vacancy till his appointment on regular basis. This Court, while disposing of the writ application, had not directed that the petitioner shall be appointed on leave or casual vacancy till his regularization. In case the petitioner appears before the opposite parties and prays

for working by way of stop gap arrangement, the opposite parties shall consider the same as directed by this Court in its earlier order. In view of the aforesaid, I am not inclined to proceed against the opposite parties any further.

7. Application stands disposed of with the aforesaid observation.

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