

Indu Devi Alias Indu Kumari and Ors Vs. State of Jharkhand and Ors.

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Court : Jharkhand

Decided On : Jul-22-2015

Appellant : Indu Devi Alias Indu Kumari and Ors

Respondent : State of Jharkhand and Ors.

Advocate for Pet/Ap. : Mr. Vijay Shankar Prasad

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 7114 of 2006
----- 1. Indu Devi @ Indu Kumari wife of Late Dip Narayan, Thakur, resident of Sarvodaya Nagar, Jail Gate PO+PS Daltonganj, District Palamu.

2. Suresh Kumar Singh son of late Jagdish Singh, Village Mukund, P.O Karhat, P.S. Risiyath, District Aurangabad Bihar presently posted as Accounts Clerk in the office of Executive Engineer, Road Construction Department, Road division Garhwa.

3. Md. Salahuddin son of late Sahahuddin, resident of Gwala Toli, Hindpiri, P.O and P.S. Hindpiri, District Ranchi, presently posted in the office of Executive Engineer, Road Construction Department, Road Division Daltonganj.

4. Ashok Kumar Sharma son of late Bharat Pd. Sharmam resident of Hamidganj, P.O and P.S. Daltonganj, district Palamu, presently working in the office of Executive Engineer, Road Construction Department, Road Division Garhwa.

5. Ravindra Kumar son of late Daroga Sahu, village Hariharganj, P.O and P.S. Nasriganj, District Rohtas, Bihar, presently working in the office of Executive Engineer, Road Construction Department, Road Division Daltonganj.
6. Binay Kumar Sinha son of Sri Rajendra Pd. Sinha resident of Uddana P.O Pedum, P.S. Navi Nagar, District Aurangabad Bihar presently working in the office of Executive Engineer, Road Construction Department, Road Division Daltonganj.
7. Dhiren Ram son of late Basudeo Ram, resident of Jail Hata, P.O and P.S. Daltonganj, District Palamau, presently working in the office of Executive Engineer, Road Construction Department, Road Division Daltonganj.
8. Rajendra Prasad son of late Kalpu Ram, resident of Sunda, P.O Sunda P.S Daltonganj District Palamau, presently working in the office of Executive Engineer, Road division Daltonganj.
9. Satyendra Narayan Sharma son of late Raj Kumar Sharma, resident of Beralota, near G.L. College, Daltonganj, P.O and P.S. Daltonganj, District Palamau, presently working in the office of Executive Engineer, Road Division Daltonganj.
10. Sanjay Kumar Singh son of late Budhan Pd. Singh, resident of, Sarvodaya Nagar, Jail Hata P.O & P.S. Daltonganj, District Palamau presently working in the office of Executive Engineer, Road Division, Garhwa.
11. Vijendra Singh son of late Basudeo Singh, village Bhagwanpur, P.O Ganga Chak, P.S. Mesori, District Patna presently working in the office of Executive Engineer, Road Division Latehar.
12. Mubarak Hussain son of late Jhid Hussain, resident of Babhandih, P.O Talaiya Babhan dihk, P.S Chainpur, District Palamau, presently working in the office of Executive Engineer, Road Division Garhwa.
13. Khurshid Ahmad Ansari son of late Manshur Ahmad, resident of Kabir Mohalla, P.O & P.S. Aurangabad, District Aurangabad, presently working in the office of Executive Engineer, Road Division Latehar.

14. Anmol Kishore Sahay s/o Late Krishna Kishore Sahay resident of Gayatri Mandir Road, Sudna, P.O & PS Daltonganj, District Palamau.
15. Madan Prasad son of late Chhathu Ram, resident of Mohalla Ramdhan pur P.S Gaya (Kotwali), P.O Gaya (R.S.) District Gaya presently working in the office of Executive Engineer,Road -2- Division Daltonganj.
16. Ashok Kumar son of late Ramdhan Prasad, resident of Jakkanpur P.O and P.S. Sheo Mandir, District Patna, Bihar, presently working in the office of Executive Engineer,Road Division Garhwa.
17. Ram Pyari Mahto son of late Chhabinath Mahto village and P.O Sudna P.S Daltonganj District Palamau, presently working in the office of Executive Engineer,Road Division Latehar.
18. Sachidanand Sinha son of late Madan Prasad, resident of Kund Mohalla (Paneri Gali), P.O & P.S Daltonganj, District Palamau presently working in the office of Executive Engineer,Road Division Daltonganj.
19. Vinay Kumar Singh son of late Bimla Charan Singh, resident of village Chandodih P.O Jath Dumri, P.S. Punpun, District Patna, presently working in the office of Executive Engineer,Road Division Daltonganj.
20. Most. Bharni Kunwar w/o Late Mohendra Ram permanent resident of village & P.O Mathurapur, District Vaishali presently residing at Nai Mohalla, P.O Belwa Tekar P.S Daltonganj Dist. Palamau.
21. Smt. Ram Dulari Singh wife of late Raja Ram Singh, resident of Badorwat, P.S. Hanspur, P.O Mahnor, District Aurangabad, presently working in the office of Executive Engineer,Road Division Garhwa .. .
- Petitioners 1. The State of Jharkhand 2. The Secretary, Road Construction Department, Govt. of Jharkhand, Ranchi 3. The Regional Establishment Committee, Road Construction Department, through its Chairman-cum-Superintending Engineer, Road Construction Circle, Daltonganj, Palamau Jharkhand.

4. Superintending Engineer, Road Construction Department, Road Construction Department, Road Construction Circle, Daltonganj Palamau, Jharkhand.

5. Executive Engineer, Road Construction Department, Road Division, Latehar, Jharkhand.

6. Executive Engineer, Road Construction Department Road Division, Daltonganj, Palamau, Jharkhand.

7. Executive Engineer, Road Construction Department Road Division, Garhwa, Jharkhand. .. . Respondents ----- Coram: HONBLE MR JUSTICE RONGON MUKHOPADHYAY ----- For the Petitioners : Mr. Vijay Shankar Prasad, Advocate For the Respondents : J.C. to S.C. Mines ----- 15/22/07/2015 Heard Mr. Vijay Shankar Prasad, learned counsel for the petitioners and learned J.C. to S.C. Mines. The petitioners in this writ application have prayed for quashing the order as contained in Memo No. 672 dated 25.10.2006, passed by the respondent no. 4, by which the up gradation of petitioners granted under "Assured Career Progression Scheme" (ACP Scheme) -3- by the Establishment Committee, Road Construction Department, Road Circle, Daltonganj, vide order as contained in Memo No. 209 dated 27.03.2004 and Memo No. 258 dated 14.05.2004, has been cancelled. It is the case of the petitioners that they were appointed as Lower Division Clerk in Road Construction Department and on completion of 12/24 years of service under ACP Scheme, Establishment/Screening Committee have found the petitioners eligible for getting up gradation/promotion. Accordingly, vide office order as contained in Memo No. 209 dated 27.03.2004 and Memo No.258 dated 14.05.2004, up gradations/promotions have been granted to the petitioners from the date mentioned against their names and they were getting the monetary benefits from the said date. Subsequently, the impugned order as contained in Memo No. 672 dated 25.10.2006 was issued, by which the benefits under the ACP Scheme granted vide order as contained in Memo No. 209 dated 27.03.2004 and Memo No. 258 dated 14.05.2004 were cancelled. Mr. Vijay Shankar Prasad, learned counsel for the petitioners, has submitted that the petitioners have been found eligible for the benefits under the ACP Scheme by the Establishment/Screening Committee but subsequently without any show cause

notice or without giving an opportunity of hearing to the petitioners, the benefits granted under the ACP Scheme to the petitioners were cancelled by the impugned order dated 25.10.2006, which was passed by the Superintending Engineer(Respondent no. 4). Learned J.C. to S.C. Mines, on the other hand, has referred to the ACP Scheme and has submitted that the petitioners were wrongly granted the benefits under the ACP Scheme and in such circumstance, the impugned order was passed in accordance with law. It has further been submitted that the impugned order dated 25.10.2006 passed by respondent no. 4 was in compliance of the decision of the Establishment/Screening Committee to the effect that if any error is found in the order earlier granting ACP, the same shall be revoked by the competent authority without giving any prior notice and excess amount shall also be recovered. It is, thus, admitted by the respondents that before issuance of the impugned order dated 25.10.2006, no prior notice or opportunity of hearing was given to the petitioner to put forward the case before the -4- authorities. The respondents have based revocation/grant of benefits under the ACP Scheme "on account of error" prior to which the petitioner did not get an opportunity to controvert. In such circumstance, therefore, the order as contained in Memo No.672 dated 25.10.2006, passed by the respondent no. 4, cannot be sustained in the eyes of law in view of apparent violation of principles of natural justice by the respondents by not giving any notice prior to such cancellation and therefore the same is quashed and set aside. The matter is remitted back to the respondent no. 4, who shall pass a fresh order in accordance with law after giving an opportunity of hearing to the petitioners within a period of eight weeks from the date of receipt/production of a copy of this order. This writ application is disposed of. (Rongon Mukhopadhyay,J) Rakesh/