

**Sanjay Kumar and Ors Vs. The State of Jharkhand and Ors.**

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**Court :** Jharkhand

**Decided On :** Aug-24-2016

**Appellant :** Sanjay Kumar and Ors

**Respondent :** The State of Jharkhand and Ors.

**Judgement :**

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 688 of 2013 1. Sanjay Kumar 2. Ashok Kumar 3. Ashok Oraon 4. Shiv Kumar 5. Dipak Kumar Rai 6. Raju Oraon 7. Munna Sah 8. John Minz ..... Petitioners Versus 1. The State of Jharkhand.

2. Additional Chief Secretary, Drinking Water and Sanitation Department, Government of Jharkhand, Ranchi.

3. Engineer-in-chief, Drinking Water and Sanitation Department, Government of Jharkhand, Ranchi.

4. Superintending Engineer, Drinking Water and Sanitation, Town Circle, Ranchi.

5. Executive Engineer, Drinking Water and Sanitation, Gonda Division, Ranchi. ... Respondents. ----- CORAM : HONBLE MR. JUSTICE H. C. MISHRA ----- For the Petitioners : Mr. Saurabh Shekhar, Advocate For the Respondents : J.C. to G.P.-VI. ----- 11/ 24.08.2016 Heard learned counsel for the petitioners and learned counsel for the respondent State.

2. The petitioners are working on daily wages in Drinking Water and Sanitation Department, Government of Jharkhand, and they are aggrieved by the order, as contained in Memo No. 230 dated 5.11.2012, which has been brought on record as Annexure-11 to the writ application, whereby the claim of the petitioners for payment of their wages equivalent to the minimum pay in the pay scale of the regularly employed employees in the lowest grade in the Department, has been rejected by respondent No.

2. The petitioners have also prayed for their regularisation in service, but this prayer is not pressed by learned counsel for the petitioners for the present, with the liberty to raise the claim afresh, if required. The liberty as prayed for is allowed.

3. The petitioners had earlier moved before this Court in W.P.(S) No. 326 of 2012 for redressal of their grievances, in which, by order dated 6.2.2012, as contained in Annexure-1 to the writ application, Principal Secretary, Drinking Water and Sanitation Department, Government of Jharkhand, was directed to treat the writ application as a representation and decide the claim of the petitioners. -2- 4. Pursuant to the aforesaid order, the impugned order, as contained in Memo No. 230 dated 5.11.2012, has been passed by respondent No. 2, in which, it is stated that on the basis of the records, it was found that the petitioner No. 2, Ashok Kumar was working on daily wages since 28.2.2003, petitioner No. 5, Dipak Kumar Rai was working with effect from 27.3.2002 and the other petitioners were working on daily wages since 14.7.1999. It is also stated in the impugned order that since the petitioners were not employed on daily wages prior to 1.1.1988, as such, their claims are rejected. However, one Mahavir Oraon, who was also co-petitioner in W.P.(S) No. 326 of 2012 and was found to be working on daily wages since prior to 1.1.1988, it was directed that he shall be paid the wages on the minimum of the pay scale of Class-IV employees.

5. Learned counsel for the petitioners has submitted that the impugned order, passed by the respondent No. 2, is absolutely illegal and without any rational. It is stated that cutoff date of 1.1.1988 has been fixed by the respondent No. 2 without any basis, and even though the petitioners are still working on daily wages, they have been denied their payment of wages at the rate equivalent to the minimum

pay in the pay scale of Class-IV employees.

6. In this connection learned counsel for the petitioners has placed reliance upon the decision of Honble Apex Court in U.P. Income Tax Department Contingent Paid Staff Welfare Association Vs. Union of India and Others, reported in 1987 (Supp) SCC658 wherein taking into consideration the earlier decision of the Apex Court in Daily Rated Casual Labour Employed under P & T Department through Bhartiya Dak Tar Mazdoor Manch Vs. Union of India, reported in (1988) 1 SCC122 the casual labours, working in these departments were directed to be paid the wages at the rates equivalent to the minimum pay in the pay scale of regularly employed workers in the corresponding cadres, and such workmen were also held to be entitled to get the corresponding dearness allowance. Learned counsel, accordingly, submitted that in view of the settled law that the casual workers, who were working on daily wages, are entitled to be paid their wages at the rate equivalent to the minimum pay in the pay scale of Class-IV employees, the impugned order, denying the claim of the petitioners, cannot be sustained in the eyes of law.

7. Learned counsel for the State has opposed the prayer and has pointed out from the counter affidavit, filed on behalf of the State that since the petitioners were not found working prior to 1.1.1988, the claim of the petitioners have been rightly rejected. In this connection, learned counsel for the State has -3- brought on record an order of the State Government, as contained in Memo No. 568 dated 21.6.2003, as contained in Annexure-A to the Supplementary Counter Affidavit, wherein there is a discussion about regularisation of daily wages workers, who were engaged prior to 1.1.1988. Accordingly, in view of the aforesaid order, it is submitted that the petitioners were not entitled even to the minimum of the pay scale as they were not found working prior to 1.1.1988.

8. Having heard learned counsels for both the parties and upon going through the record, I find that the order dated 21.6.2003, as contained in Annexure-A to the Supplementary Counter Affidavit and relied upon by the learned counsel for the State, has no connection or nexus with the claim of the petitioners. In the said order there is only a discussion about regularisation of the service of daily wages

workers, who were engaged prior to 1.1.1988, and speaks nothing about payment of wages at the minimum of pay scale of the class-IV employees. The impugned order shows that the petitioners are working on daily wages in the Department, from the dates mentioned in the impugned order.

9. In that view of the matter, if the petitioners are working on daily wages, the cases of the petitioners are fully covered by the decision of the Apex Court in the cases of U.P. Income Tax Department Contingent Paid Staff Welfare Association and Daily Rated Casual Labour Employed under P & T Department through Bhartiya Dak Tar Mazdoor Manch (Supra), wherein it has been held that the persons working on daily wages are entitled to the wages at the rates equivalent to the minimum of the pay scale of the regularly employed persons, and they are also entitled to the dearness allowance on the same.

10. In view of the aforementioned discussions, the respondent authorities are directed to make the payment of wages to the petitioners at the rate equivalent to the minimum pay in the pay scale of Class-IV employees working in the Department, with admissible dearness allowance, with effect from the date, from which, the same benefit has been given to said Mahavir Oraon, who was the co-petitioner along with these petitioners in W.P.(S) No. 326 of 2012, or from the date of the employment of the petitioners, whichever be later.

11. This writ application is accordingly, allowed in part, with the directions as above. ( H. C. Mishra, J.) Amitesh/-

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