

C.W.J.C. No. 3623 of 2000(R)

In the matter of an application under Article 226 of the Constitution of India.

Jivan Oraon and others	Petitioners
-Versus-			
The State of Bihar & ors.	Respondents

For the Petitioner	:M/S. R. Krishna and A.K. Sinha		
For the Respondents	:J.C. to G.P. V		

PRESENT : HON'BLE MR. JUSTICE APARESH KUMAR SINGH

Aparesh Kumar Singh, J. Heard counsel for the parties.

The writ petition has been preferred by the petitioners, 16 in numbers, for being given the benefits of absorption from the date of their original appointment as Adult Education Supervisor. These petitioners claimed that they were appointed on the said post of Adult Education Supervisor in Adult Education Programme, which was sponsored by the Planning Commission of India and implemented in the State of Bihar at the relevant point of time some time in the 1980^s. They claimed to have been appointed on fulfilling minimum educational qualification of Graduation and had continued to work on the said post till they were disengaged in the year 1992. The affected association of the petitioners filed a writ petition being C.W.J.C. No. 5036 of 1992 before the Patna High Court. The writ petition was disposed of by a judgment and order dated 24.05.1996 by issuing certain directions, which are quoted herein under:

“33. But it cannot be ignored that having regard to the long services rendered by the petitioners administrative authorities had also suggested steps for their absorption even in another department. Therefore, having taken into consideration entire facts and circumstances of the cases, I dispose of the writ-petitions with the following direction to the respondent-authorities: (a) to allow the petitioners and interveners to continue against those 771 posts, against which they were adjusted in terms of the letter of the concerned department, dated 19th December, 1990. But such an adjustment is to be made as per their seniority or (b) in case those posts have also been abolished, take steps to absorb/adjust the petitioners along with the interveners in a similar manner, the employees of

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consolidation Department were adjusted or (c) if for any justified reason condition Nos. (a) or (b) are not possible, take a decision similar to the State of Uttar Pradesh, which I have already indicated in paragraph No. 18 of this order and adjust/absorb them accordingly. But in the facts and circumstances of the case, I could not persuade myself to quash the impugned orders.”

According to the petitioner, the Special Leave Petition filed by the State was dismissed by the Hon'ble Supreme Court vide order dated 21.03.1997. The petitioners were thereafter again absorbed in the service of the respondent-State of Bihar some time in the year 1998, as per the statements made in the paragraphs 34 and 35 of the writ petition against the post of Clerk-cum-Accountant/Clerk-cum-Typist. It is the contention of the petitioners that thereafter they have continued in service. Subsequently, the petitioners were again retrenched on account of being surplus in the year 2001. However, it is submitted that the State Government again took a decision by resolution contained in memo no. 824 dated 30.05.2007 for adjustment/absorption of the services of the petitioners on the vacancies existing in the different departments of the State of Jharkhand. It is, therefore, submitted by way of statements made in supplementary affidavit filed on 26.04.2010 that the petitioners and others similarly situated persons have been adjusted and posted in different capacities in different departments. Thereafter in the light of the decision as contained in resolution dated 30.05.2007, individual orders have been passed for adjustment of petitioner nos. 1, 3, 4, 6, 7, 12, 15 and 16, which are annexed as Annexures-5 and 6 to the said supplementary affidavit. It is submitted by reference to the statements made in paragraph-5 of the said supplementary affidavit that during the pendency of the writ petition, petitioner nos. 2, 5, 8, 9, 10, 11, 13 and 14, who were earlier appointed as clerk in the scale of Rs. 4000-6000, have been regularized on pay scale of Rs. 5000-8000 on

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different posts in the department of Food and Civil Supply in the successor State of Bihar vide office order as contained in memo no. 2199 dated 2.7.2007, which is Annexure-1 to the said supplementary affidavit. Petitioner nos. 2 and 14 and other six petitioners, who were appointed in the Human Resources Development Department in the successor State of Bihar have been absorbed in the Human Resources Development Department in the successor State of Bihar vide office order dated 03.04.2007 and other 5 petitioners have been appointed in the Panchayati Raj Department in the successor State of Bihar. Accordingly, as per the petitioners, petitioner nos. 1, 3, 4, 6, 7, 12, 15 and 16 have been working within the State of Jharkhand after being absorbed pursuant to the resolution dated 30.05.2007. Counsel for the petitioner has also submitted by reference to the supplementary affidavit filed on 17.02.2012 that the similarly situated persons had moved before the Patna High Court in C.W.J.C. No. 20780 of 2010 and C.W.J.C. No. 20801 of 2010 for similar reliefs. The said writ petitions have been disposed of by order dated 19.04.2011 by observing that the respondents should consider the petitioners as continuing in service between 1992-1998 on notional basis only for the purpose of grant of monetary benefits from 1998 onwards and post retirement monetary benefits. The said order is annexed as Annexure-20 to the supplementary affidavit referred to hereinabove. Learned counsel for the petitioner further submits that after filing of the writ petition, the successor State of Jharkhand and the respondents-authorities of successor Government have been impleaded as parties-respondents in the instant case, who are also represented through their counsel. It is further submitted that the respondents-authorities of the State of Jharkhand should be directed to consider the grievances of the petitioners, some of whom have now retired and only few of them are still serving. Counsel for the petitioners also submits that the

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petitioners now confine their prayer to the same relief, which has been granted by the Patna High Court to other similarly situated persons, so far as grant of continuity in service between 1992-1998 is concerned, on notional basis for the purpose of grant of monetary benefits from 1998 onwards and post retirement retirement monetary benefits.

Counsel for the respondent-State of Jharkhand does not object to such prayer.

In these circumstances, since the writ petition has remained pending for almost 13 years and some of the petitioners have now retired and some are at the verge of the retirement, the writ petition is being disposed of by allowing the petitioners, who are serving or have retired from the State of Jharkhand, to approach the competent authority/Principal Secretary/Secretary of the department concerned where they are serving or have retired for redressal of their aforesaid grievances within a period of three weeks together with all supporting facts, document and the judgments that they seek to rely. In case, such representation is made before the competent authorities of the respective departments where individual petitioners are serving or have retired, the concerned authority shall consider the same in accordance with law and the judgments relied upon by the petitioner and pass a reasoned and speaking order in respect of the individual claim of such petitioners within a period of 16 weeks from the date of receipt of a copy of this order.

This writ petition is, accordingly, disposed of in the aforesaid terms.