

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S). No. 1021 of 2020

(Dharo Oraon & Ors. Vs. State of Jharkhand & Ors.)

with

**W.P.(S). No. 2825 of 2021 with W.P.(S). No. 3511 of 2021 with
W.P.(S). No. 4351 of 2021 with W.P.(S). No. 221 of 2017 with
W.P.(S). No. 271 of 2017 with W.P.(S). No. 273 of 2017 with
W.P.(S). No. 296 of 2017 with W.P.(S). No. 339 of 2017 with
W.P.(S). No. 7449 of 2017 with W.P.(S). No. 6018 of 2018 with
W.P.(S). No. 6019 of 2018 with W.P.(S). No. 6025 of 2018 with
W.P.(S). No. 6405 of 2018 with W.P.(S). No. 6619 of 2018 with
W.P.(S). No. 549 of 2019 with W.P.(S). No. 1624 of 2019 with
W.P.(S). No. 6304 of 2019 with W.P.(S). No. 2794 of 2020 with
W.P.(S). No. 2942 of 2020 with W.P.(S). No. 3042 of 2020 with
W.P.(S). No. 3204 of 2020 with W.P.(S). No. 3363 of 2020 with
W.P.(S). No. 3543 of 2020 with W.P.(S). No. 3623 of 2020 with
W.P.(S). No. 3842 of 2020 with W.P.(S). No. 4187 of 2020 with
W.P.(S). No. 4413 of 2020 with W.P.(S). No. 991 of 2021 with
W.P.(S). No. 1470 of 2021 with W.P.(S). No. 1480 of 2021 with
W.P.(S). No. 1528 of 2021 with W.P.(S). No. 1548 of 2021 with
W.P.(S). No. 1626 of 2021 with W.P.(S). No. 1630 of 2021 with
W.P.(S). No. 1901 of 2021 with W.P.(S). No. 2240 of 2021 with
W.P.(S). No. 2468 of 2021 with W.P.(S). No. 2531 of 2021 with
W.P.(S). No. 2701 of 2021 with W.P.(S). No. 2780 of 2021 with
W.P.(S). No. 3082 of 2021 with W.P.(S). No. 3116 of 2021 with
W.P.(S). No. 3184 of 2021 with W.P.(S). No. 3293 of 2021 with
W.P.(S). No. 3521 of 2021 with W.P.(S). No. 3684 of 2021 with
W.P.(S). No. 3739 of 2021 with W.P.(S). No. 4364 of 2021 with
W.P.(S). No. 4205 of 2021 with W.P.(S). No. 4775 of 2022 with
W.P.(S). No. 4777 of 2022 with W.P.(S). No. 4460 of 2021 with
W.P.(S). No. 4645 of 2021 with W.P.(S). No. 4966 of 2021 with
W.P.(S). No. 4972 of 2021 with W.P.(S). No. 5027 of 2021 with
W.P.(S). No. 5075 of 2021 with W.P.(S). No. 5216 of 2021 with
W.P.(S). No. 5353 of 2021 with W.P.(S). No. 5505 of 2021 with
W.P.(S). No. 5509 of 2021 with W.P.(S). No. 335 of 2022 with
W.P.(S). No. 340 of 2022 with W.P.(S). No. 366 of 2022 with
W.P.(S). No. 371 of 2022 with W.P.(S). No. 767 of 2022 with
W.P.(S). No. 936 of 2022 with W.P.(S). No. 969 of 2022 with
W.P.(S). No. 4158 of 2022 with W.P.(S). No. 1201 of 2022 with
W.P.(S). No. 1225 of 2022 with W.P.(S). No. 1236 of 2022 with
W.P.(S). No. 1238 of 2022 with W.P.(S). No. 1254 of 2022 with
W.P.(S). No. 1422 of 2022 with W.P.(S). No. 1454 of 2022 with
W.P.(S). No. 1483 of 2022 with W.P.(S). No. 1668 of 2022 with
W.P.(S). No. 1679 of 2022 with W.P.(S). No. 1761 of 2022 with
W.P.(S). No. 2080 of 2022 with W.P.(S). No. 2113 of 2022 with
W.P.(S). No. 2582 of 2022 with W.P.(S). No. 2727 of 2022 with
W.P.(S). No. 2748 of 2022 with W.P.(S). No. 2898 of 2022 with
W.P.(S). No. 3121 of 2022 with W.P.(S). No. 3351 of 2022 with
W.P.(S). No. 4099 of 2022 with W.P.(S). No. 4102 of 2022 with**

**W.P.(S). No. 4103 of 2022 with W.P.(S). No. 4178 of 2022 with
W.P.(S). No. 4326 of 2022 with W.P.(S). No. 4529 of 2022 with
W.P.(S). No. 4590 of 2022 with W.P.(S). No. 4690 of 2022 with
W.P.(S). No. 4737 of 2022 with W.P.(S). No. 4741 of 2022 with
W.P.(S). No. 4824 of 2022 with W.P.(S). No. 5530 of 2022 with
W.P.(S). No. 6035 of 2017 with W.P.(S). No. 1574 of 2018 with
W.P.(S). No. 2984 of 2019 with W.P.(S). No. 4331 of 2020 with**

CORAM : HON'BLE DR. JUSTICE S.N. PATHAK

For the Petitioner : Mr. Anil Kumar Sinha, Sr. Advocate
Mr. V.P. Singh, Sr. Advocate
Mrs. M.M. Pal, Sr. Advocate
M/s. Rajendra Krishna, Indrajit Sinha,
Anjali Sinha, Arpan Mishra, Saurav Arun,
Neha Bhardwaj, Adamyia Kerketta, Rahul Kr.
Singh, Shadab Bin Haque, Rajan Sahay,
Nanda Kumari, Prakash Kumar, R.R. Tiwary,
Vinay Kr. Tiwary, Arvind Kr. Singh,
Amritansh Vats, Suraj Singh,
Abhishek Srivastava, **Advocates**

For the Resp. : Mrs. Vandana Singh, Sr. SC-III
Mr. Ashwini Bhushan, AC to Sr. SC-III
Mr. Uttam Kr. Das, AC to GP-VI
Ms. Divya, AC to SC-III
Mr. Praveen Akhouri, SC(M)-I
Mr. Sharabhil Ahmed, AC to SC(M)-I
Mr. R.K. Singh, AC to GP-IV
Mr. Krishna Murari, Advocate
Mr. K.K. Singh, SC-V
Mr. Deepak Kumar, AC to SC (L&C)-III
Mr. Suresh Kumar, SC(L&C)-II
Mr. Anshuman Kumar, AC to SC(L&C)-II
Mr. Prabhat Kumar, SC-II
Ms. Shaurya, AC to SC-II
Mr. Chandan Tiwary, AC to GA-I
Mr. Sharad Kaushal, AC to AAG-III
Mr. Nehru Mahto, AC to GP-IV
Mr. Krishna Kr. Bhatt, AC to SC-I
Mr. Raunak Sahay, AC to GP-V
Mr. Devesh Krishna, SC (M)-III
Mr. Faisal Allam, AC to SC(M)-III
Mr. Indranil Bhaduri, SC-IV
Mr. Divyam, AC to SC-IV
Ms. Pinky Tiwary, AC to AG
Mr. Rahul Dev, AC to SC(L&C)-III
Mr. Deepak Kr. AC to SC(L&C)-III
Mr. Rakesh Kr. Roy, AC to GA-III
Ms. Shilpi, AC to SC(M)-II

Mr. Rohit, AC to AAG-I
 Mr. Aman Kumar, AC to GP-I
 Mr. Mukesh Kr. Singh, AC to GP-II
 Mr. Manish Kumar, Sr. SC-II
 Mr. Amit Mishra, AC to Sr. SC-II
 Mr. Rajesh Kumar Jha, AC to Sr. SC-II
 Mr. Pradeep Kumar, AC to AAG-IV
 Mr. Shishir Suman, AC to AAG-IV
 Mr. Deepak Kumar, AC to SC (L&C)-III
 Mr. Deepak Kr. Singh, AC to GP-IV
 Ms. Khushboo Kumari, AC to GP-IV
 Mr. J.F. Toppo, GA-V
 Mrs. Moushmi Chatterjee, AC to GA-V
 Mr. Vikash Kumar, CGC
 Mr. Manoj Kumar, Sr. SC
 Dr. A.K. Singh, Advocate
 Mr. Shivam Singh, Advocate
 Mrs. Richa Sanchita, Advocate
 Mr. R.K. Gupta, Advocate
 Mr. Soumitra Baroi, Advocate
 Mrs. Kanchan Bala, Advocate

09/ 27.06.2023 Heard the parties.

Since the issues involved in all these matters relate to regularization, these are tagged and heard together.

The issue of regularization was already decided by this Court and a direction was issued to State Govt. to come-up with Policy Decision.

In compliance thereof, the State on 13.02.2015 came out with Policy Decision in shape of ***Jharkhand Sarkar Ke Adhinasth Aniyamit Rup Se Niyukt Ewam Karyarat Karmiyo Ki Sewa Niyamitikaran Niyamawali, 2015***, taking into consideration the judgments passed by Hon'ble Apex Court in cases of **State of Karnataka Vs. Uma Devi**, reported in (2006) 4 SCC 1; **State of Karnataka & Ors. Vs. M.L. Kesari & Ors.**, reported in (2010), .

However, one of the case being **Narendra Kumar Tiwari & Ors. Vs. State of Jharkhand & Ors.**, reported in (2018) 8 SCC 238, went upto the Hon'ble Apex Court and specific direction was given to reconsider the case of regularization by the State Govt. The State after much deliberation came-up with modified Regularization Rules, 2015 vide notification dated 20.06.2019.

Thereafter, the case of Narendra Kumar Tiwary and other similarly situated persons was considered and rejected by the State. The order of rejection was challenged before this Court in **W.P.(S). No. 6347 of 2018** and other analogous cases. This Court vide its judgment reported in **2023 (1) JBCJ 501 [Narendra Kumar Tiwary & Ors. Vs. State of Jharkhand & Ors.]**, considering every aspects of the matter and the regularization policy of the State as also the specific directions given by the Hon'ble Apex Court, passed a detailed order, quashing and setting aside the rejection orders passed by the State.

It appears that inspite of several orders passed by the Hon'ble Apex Court as well as this Court, the respondent-State has not shown any consideration to the order and direction of the Courts resulting into filing of *hundreds and thousands* of cases before this Court by the aggrieved persons.

This Court in case of **Narendra Kumar Tiwary & Ors. Vs. State of Jharkhand & Ors.**, reported in **[2023 (1) JBCJ 501]** has taken care of all the celebrated judgments of the Hon'ble Apex Court and directions have been issued to the respondent-State, particularly, in paras-32, 33, 35, 36, 37, 39 and 41 but surprisingly, till date no consideration has been shown to the specific direction of this Court.

Off late, the Hon'ble Apex Court in the case of **Chief Executive Officer, Zila Parishad, Thane & Ors. Vs. Santosh Tukaram Tiware & Ors.**, reported in **(2023) 1 SCC 456 (paras-13, 15, 16, 17)** and in the case of **Vibhuti Shankar Pandey Vs. State of M.P. & Ors.**, reported in **(2023) 3 SCC 639 (paras-3 & 4)** has dealt with the similar issue of regularization.

Upon hearing the learned counsel for the parties and going through several judicial pronouncements, issues to be taken into consideration while hearing cases of regularization are:

- (I) Whether the respondent-State has taken care of its own policy decision of regularization framed on 13.02.2015 as amended on 20.06.2019?
- (II) Whether while taking decision on the point of regularization, the relevant paragraphs of **Narendra Kumar**

Tiwary [2023 (1) JBCJ 501], as stated above, are being considered or not by the respondent-authorities?

(III) Whether any right has accrued to the employees appointed on contract/ temporary/ ad hoc basis, for regularization, merely because they are in service of respondents for more than 10 years?

(IV) If initial appointment was not made by the competent authority and not against the sanctioned and vacant post, whether the employees are entitled for regularization or not in such cases?

It appears that some technical issues are also involved in some of the aforementioned cases of regularization and the said issues shall be dealt with separately.

Petitioners as well as respondents may file their respective affidavit on the aforesaid issues before the next date of hearing.

List this cases on 27.07.2023.

(Dr. S. N. Pathak, J.)