IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No. 971 of 2021

Rinky Jha ….. Petitioner

Versus

1. The State of Jharkhand
2. The Secretary, Department of Agriculture, Animal Husbandry and Co-operative, Government of Jharkhand, Ranchi
3. The Principal Secretary, Department of Agriculture, Animal Husbandry and Co-operative, Government of Jharkhand, Ranchi
4. The Under Secretary, Department of Agriculture, Animal Husbandry and Co-operative, Government of Jharkhand, Ranchi ….. Respondents

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HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Petitioner: Mr. Ashish Kr. Thakur, Advocate
Ms. Kabisha Goenka, Advocate

For the Respondents: Mr. Shubham Gautam, A.C to Sr. A.A.G

15/30.09.2026 The petitioner, who happens to be a practising advocate in the High Court of Jharkhand, Ranchi, has filed the present writ petition for issuance of direction upon the respondent-Agriculture, Animal Husbandry and Co-operative Department to pay her the retainership fee along with statutory interest for the period she was engaged as a retainer by the said department.

2. Leaned counsel for the petitioner submits that the petitioner was engaged as retainer on monthly retainership fee of Rs.10,000/- vide office order as contained in memo No. 265 dated 24.01.2018 issued under the signature of the respondent No.4. After issuance of the said retainership office order, she worked as per the instructions of the authorities of the said department. The petitioner also submitted a representation to the respondent No.3 on 28.06.2018 with respect to the retainership bills for the period from 24.01.2018 to 24.06.2018. She further submitted a representation to the respondent No.3 on 12.07.2019 regarding retainership bills for the period from 24.06.2018 to 24.06.2019. She also submitted fresh representation to the respondent No.2 on 09.07.2020 regarding payment of retainership bills for the period from 24.01.2018 to 24.07.2020. Finally, the petitioner submitted the total retainership

bills for the period from January, 2018 to October, 2020 for an amount of Rs.3,40,000/- as stated in paragraph 9 of the present writ petition. The grievance of the petitioner is that despite submission of the said bills, she has not been paid any amount towards retainership. The petitioner repeatedly requested the respondent-department followed by legal notice dated 15.10.2020, however, the same were not responded, which compelled her to prefer the present writ petition.

3. A counter affidavit has been filed on behalf of the respondents sworn by Shri Krishna Kumar Pandey, Deputy Secretary of the said department. It has been stated in the counter affidavit that the petitioner was engaged as retainer of the said department vide departmental order as contained in memo No. 265 dated 24.01.2018. It has further been averred that the said departmental order mentions that the retainer would keep in touch with the departmental officer/nodal officer, prepare statement of facts, contact the concerned government pleader and get the counter affidavits filed in time. Moreover, the retainer was also required to attend the departmental monthly review meetings with requisite report.

4. It has also been stated in the counter affidavit that the petitioner never performed any of the above assigned works. Till October, 2020, she neither prepared any report or even single statement of fact nor contacted the government pleader. She never got any counter affidavit filed and did not attend any review meeting of the said department. In fact, she always insisted the retainership fee to be paid to her without any work. It has further been stated in the counter affidavit that the department asked the petitioner to submit the proof of work performed by her in terms with the letter of engagement dated 24.01.2018 so that any decision could be taken with respect to payment of retainership fee, however, she never submitted any proof of performing work.

5. Learned counsel for the respondents, based on the averments made in the counter affidavit, contends that since the petitioner did not perform any work pursuant to her engagement as the retainer of the said department vide office order dated 24.01.2018, she does not deserve payment of retainership fee. Finally, vide office order as contained in memo No. 1161 dated 04.12.2020, her engagement as retainer of the said department was cancelled. A copy of the said office order has been annexed as Annexure-A to the counter affidavit.

6. Heard learned counsel for the parties and perused the relevant materials available on record.

7. The respondents have admitted in the counter affidavit that the petitioner was engaged as retainer vide office order as contained in memo No. 265 dated 24.01.2018. Perusal of the said office order would suggest that the petitioner along with few other advocates were engaged as retainers of the said department on payment of monthly retainership fee of Rs.10,000/-. The said office order further mentions that the advocates engaged as retainers shall contact the departmental officer/nodal officer, prepare the statement of facts and on contacting the government pleader, get the counter affidavits filed in the High Court of Jharkhand in time. They were further required to participate in the departmental monthly review meetings along with the requisite report.

8. The petitioner has stated in her rejoinder affidavit that she was never allotted any work with regard to preparation of statement of facts by the department itself. She was also not assigned the work of getting the counter affidavits filed or preparing any report on behalf of the department. She has however stated that since the date of her engagement as retainer of the said department, she used to regularly visit the department and cooperate the officials in dealing with the legal works.

9. Learned counsel for the petitioner contends that there is no fault on the part of the petitioner as she was not assigned any work by the said department

itself. In fact, she was always ready to do the works assigned by the said department. Even otherwise, the petitioner deserves to be paid the retainership fee irrespective of the volume of work assigned to her.

10. This Court is of the view that ordinarily retainership fee is paid by a client to an advocate on lump-sum monthly basis for securing his/her availability and doing certain legal works which may be assigned during the period of retainership. The retainership fee is never dependant upon the volume of legal work assigned to an advocate or the actual work done by him/her towards such assignment.

11. Though it has been emphatically stated in the counter affidavit that the petitioner never performed any work as mentioned in the engagement order dated 24.01.2018, however, it has not been mentioned in the counter affidavit as to which were those works asked to be done by the petitioner. If the department did not assign any work during the period of retainership to the petitioner, no inference can be drawn therefrom that she would not be entitled to payment of retainership fee. After engagement of the petitioner as a retainer, it was for the department to assign the work to her.

12. It is not the case of the respondents that the petitioner did not perform any work assigned to her by the said department. The engagement order dated 24.01.2018 mentions the nature of the legal works required to be done by the retainers. However, no such condition has been mentioned therein that if no work is assigned to a particular retainer, he/she will not be entitled to get the retainership fee.

13. The petitioner has fairly admitted in her rejoinder affidavit that she was never assigned any work with respect to preparation of statement of facts by the said department. She was also not assigned any work with respect to filing of counter affidavits or preparation of report on behalf of the said department. She has however asserted that she used to regularly visit the department and

cooperate with the officials in dealing with the legal works. In any event, a retainership fee is completely independent of the volume of work assigned to an advocate. If a department engages an advocate as a retainer, it is for the department to assign legal works to that advocate during the period of engagement. However, if the department does not assign any work during the said period, it cannot deny payment of retainership fee to the advocate, if his/her services were otherwise available.

14. Under the said circumstances, even if no work was assigned by the department to the petitioner pursuant to her engagement as a retainer vide office order dated 24.01.2018, she cannot be denied the retainership fee of Rs.10,000/- per month. The petitioner's retainership continued with the said department for the period from 24.01.2018 till November, 2020 as the said retainership was cancelled vide office order dated 04.12.2020. Accordingly, it is held that the petitioner is entitled to get the retainership fee for the period from 24.01.2018 till November, 2020.

15. The respondent No.2 is thus directed to make payment of the retainership fee to the petitioner for the aforesaid period within four weeks from the date of receipt/production of a copy of this order.

16. The present writ petition is accordingly disposed of with the aforesaid direction.

Satish/- (RAJESH SHANKAR, J)