2026:JHHC:33499

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P (S) No. 4862 of 2026

Dharamveer Saw, son of Ghanshyam Saw, aged about 48 years, resident of Q. No. 93/5, Garwament Colony, P.O. & P.S.I.E. Gomia, District-Bokaro (Jharkhand).

..... Petitioner(s)

V E R S U S

1. The State of Jharkhand.
2. The Principal Secretary, Dept. of Personnel, Administrative Reforms and Rajbhasha Govt. Of Jharkhand, Project Building, P.O. & P.S. Dhurwa, Dist- Ranchi.
3. The Secretary, Revenue. Registration & Land Reform, Govt. of Jharkhand, Project Building, P.O. & P.S. Dhurwa, Dist-Ranchi.
4. The Commissioner, North Chotanagpur Division, Hazaribagh, P.O. & P.S. Hazaribagh, District Hazaribagh.
5. The Deputy Commissioner, Bokaro, P.O. & P.S. Bokaro, District Bokaro.
6. The Additional Collector (Establishment), Bokaro, P.O. & P.S. Bokaro, District Bokaro.
7. The Deputy Collector (Establishment), Bokaro, P.O. & P.S. Bokaro, District-Bokaro.
8. The Block-Divisional Officer, Gomia, P.O. & P.S. Gomia, District-Bokaro.

..... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

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For the Petitioner(s) : Mrs. Rinku Bhakat, Advocate
For the Resp.-State : Mr. Ravi Kerketta, S.C.-VI

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C.A.V. ON: 21/09/2026 **PRONOUNCED ON: 25 /11/2026**

1. Heard learned counsel for the parties.

2. The present writ petition has been preferred by the petitioners for the following reliefs:-

> ***1)*** *For direction upon the respondent to regularize the service of the petitioner in the light of Notification No.1348 dated 13.02.2015 [Annexure-5] and Notification No.4871 dated 20.06.2019 [Annexure-5/1] issued by the Department of Personnel, Administrative Reforms and Rajbhasa, Govt. of Jharkhand and considering the judgement of the Hon'ble Apex Court Narendra Kumar Tiwari & Ors. Vrs. State of Jharkhand reported in (2018) 8*

SCC 238, Dharam Singh & Ors. Vrs. State of U.P. and Anr. reported in 2025 SCC Online SC 1735 and Jaggo Vs. Union of India & Ors. Reported in 2024 SCC OnLine SC 3826 considering the facts that the petitioner is continuously working since 2006 on sanctioned vacant post of the driver with the respondents instead of appointed by the BDO, Gomia.

ii) *For quashing of part of the Memo No.328 dated 13.03.2020 [Annexure-4/1] whereby the claim of the petitioner for regularization in service was rejected showing that petitioner is not appointment by the competent authority and not recommended by the Deputy Commissioner, Bokaro, the petitioner is working as daily wages without any gape in the sanctioned vacant post since 2006 till date ignoring the facts that the petitioner is no appointed by the Deputy Commissioner, Bokaro.*

(iii) *For direction upon the respondents to pay all consequential benefits after counting of past service initial date of appointment of the petitioner.*

3. The brief facts of the case are that the petitioner was appointed as a driver in the year 2006 and has been continuously working with the respondent, i.e., Block Development Officer, Gomia, Bokaro. The petitioner is 10th pass and having all the requisite qualification for appointment as driver in the year 2006.

4. In the year 2020, a panel was prepared by the Deputy Commissioner, Bokaro whereby the case of the petitioner was considered for regularisation of his services, however the same was rejected vide Memo No. 328 dated 13.03.2020 on the ground that he has not been appointed by the competent authority.

5. The case of the petitioner is that the action of the respondents is arbitrary and illegal in view of the fact that the petitioner is working for last more than 20 years and though the petitioner has filed several representation for regularisation of his service and lastly on 11.06.2026, but till date the

respondents have not regularised the service of the petitioner. Hence, this writ application.

6. It has been submitted by Ld. Counsel for the petitioner that the petitioner has been continuously working since 2006 and certain experience certificates have also been issue to him for his contribution. She relied on the judgment passed by this Court in *W.P.(S) No. 722 of 2026 [Gulam Khan v. State of Jharkhand]* and submitted that the petitioner is also entitled for regularisation in view of the Hon'ble Supreme Court's judgment rendered in the case of the *Narendra Kumar Tiwari v. State of Jharkhand [(2018) 8 SCC 238]* and the Regularisation Policy of 2015 and subsequently modified in 2019.

7. *Per contra,* learned counsel for the respondents submitted that after due consideration, the regularisation committee has resolved that the petitioner does not fulfil the eligibility criteria prescribed under Clause 3(a)(iii) of the Regularisation Rules, 2015 as his engagement was not made by the competent authority and that the petitioner was not possessing qualification of 10th pass in the year 2006 as his marks statement issued by JAC, Ranchi is of 2009, and not of 2006.

8. Having heard learned counsel for the rival parties and upon perusal of the materials available on record, it transpires

that the petitioner has been admittedly working since the year 2006 under the respondent, i.e., Block Development Officer, Gomia, Bokaro. The contention raised by the respondents for denying the claim of regularisation of service of the petitioner is that he has not been engaged by the competent authority and he is not having requisite qualification as per the prescribed rules for regularisation of service of driver.

9. The State has taken a stand that the Clause 3 of the Regularisation Policy allows regularisation in case of irregular appointments only after fulfilling the condition of initial appointment by the competent authority; however, it cannot be culled out that if the initial appointment has been made by incompetent authority, then *per se* it would become an illegal appointment.

10. Admittedly, the respondents have taken work for more than two decades, which implies that the department while taking regular government functions knowingly took work from the petitioner for years and accordingly, they cannot deny such informal entry, which at the best could be irregular appointment, but not illegal one.

11. In ***Amarkant Rai v. State of Bihar [(2015) 8 SCC 265],*** the Hon'ble Supreme Court also has observed that when the respondent is well acquainted of the appointment and has admittedly took the work for such long duration without ever

raising incompetency of the appointing authority cannot later term the appointment as illegal; rather it could be at the farthest irregular appointment.

12. Moreover, the respondents have failed to show any instance of departmental action taken against such illegal authorities during such a long span of time if it is to say that they appointed such employee illegally or without being a competent authority.

13. On the issue of initial appointment not been made by a competent authority, similar view has been taken by the Division Bench of this Court in ***LPA No. 457 of 2025*** and so the Court dismissed the appeal upholding the claim of regularisation as rightly adjudged. Thus, when the engagement has been made by the departmental officer under statutory powers to overcome the exigencies of work, the same cannot be termed after a decade as illegal *[refer* ***Nihal Singh v. State of Punjab, (2013) 14 SCC 65****]*. Thus, if there has been genuine exigency and no nepotism or mala-fide involved, then it would fall under the irregular appointment *[refer* ***State of J&K v. District Bar Association, Bandipora, (2017) 3 SCC 410****]*

14. So far as the second issue is concerned, i.e. the issue of requisite condition of educational qualification with respect to regularisation, the same has been dealt time and again by

the Hon'ble Apex Court and the chronological jurisprudential development of the doctrine of regularisation shows that in assessing regularisation, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Workmen in the past and has been rightly discouraged in the judgment of ***Shripal v. Nagar Nigam, Ghaziabad [2025 SCC OnLine SC 221]***.

15. In ***Jaggo [2024 SCC OnLine SC 3826]***, it has been held that it is unjust to rely on educational qualification that is not associated to the nature of work performed by such workers and the same has not been strictly enforced in cases of regularisation. If the strict criteria of educational qualification would be sought after such a prolonged period and that too which was not required while performing the work till date during the temporary engagements will be against the ensuing constitutional evolution and normative balance with respect to regularisation. Assuming such appointee would have now gained sufficient experience in performing the work for more than a decade would not be fallacious.

16. Having regard to the above discussion, and the fact that the petitioner has been working continuously since 2006, the Court is of the considered opinion that the petitioner is entitled for regularisation of his services on completing his services for about two decades in light of the Regularisation

Policy of 2015 as amended in 2019 and the judgments of the Hon'ble Supreme Court rendered in the cases of *Narendra Kumar Tiwari v. State of Jharkhand [(2018) 8 SCC 238], Dharam Singh v. State of U.P. [2025 SCC OnLine SC 1735]*, *Jaggo v. Union of India [2024 SCC OnLine SC 3826]* and *Bhola Nath v. Union of India [2026 SCC OnLine SC 129].*

17. Accordingly, the impugned part of the Memo No. 328 dated 13.03.2020 [Annexure-4/1]; whereby the claim of the petitioner for regularisation of his service has been rejected is, hereby, quashed and set aside.

18. The respondents are directed to regularize the services of the petitioner on the post of driver and issue a formal order of regularisation within a period of 12 weeks from the date of receipt/production of a copy of this order.

19. As a result, the instant writ application is allowed. Pending I.A.(s), if any, stands closed.

(Deepak Roshan, J.)

Dated: 25 / 11/ 2026
Amardeep/

Uploaded on
26.11.2026