

IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 181 of 2025

Arun Kumar

..... Appellant

Versus

1. The State of Jharkhand, through its Principal Secretary, Department of Urban Development and Housing, Government of Jharkhand, Ranchi
 2. The Director, Municipal Administration Directorate, Department of Urban Development and Housing, Government of Jharkhand, Ranchi
 3. The Assistant Director, Municipal Administration Directorate, Department of Urban Development and Housing, Government of Jharkhand, Ranchi
 4. Ranchi Municipal Corporation, through the Municipal Commissioner, Ranchi
- Respondents

CORAM

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Appellant:

Mr. Indrajit Sinha, Advocate

Mr. Kumar Vaibhav, Advocate

For Respondent Nos.1-3: Mr. Rakesh Kr. Shahi, A.C to S.C(L&C)-I

For Respondent No.4: Dr. Vandana Singh, Advocate

Ms. Neha Singh, Advocate

Reserved on 16.06.2026

Pronounced on 24.06.2026

Per: Rajesh Shankar, J: The present appeal is directed against the order/judgment dated 24.02.2025 passed in W.P.(S) No. 926 of 2025 whereby the learned Single Judge has dismissed the writ petition filed by the petitioner/appellant rejecting his claim for promotion to the post of Assistant Law Officer in Ranchi Municipal Corporation observing that he cannot claim promotion to the said post of Legal Cadre without entering into the said cadre as promoting him to the post of Assistant Law Officer would result in inter-cadre promotion.

2. The factual background of the case, as stated in the writ petition, is that the appellant was appointed on compassionate ground in Ranchi Municipal Corporation on Class-III post vide memo no. 704 dated 09.05.1996 issued by the Administrator, Ranchi Municipal Corporation, Ranchi. Thereafter, he was posted as an Assistant in the Legal Section of the

Ranchi Municipal Corporation vide memo no. 746 dated 17.05.1996. He joined in the Legal Section of the Ranchi Municipal Corporation on 17.05.1996 itself and worked there for a considerable period. The appellant, after getting permission from his employer, obtained the Degree of LL.B. from the Chotanagpur Law College, Ranchi under the Ranchi University after passing the said examination in August, 2006. The posts of Legal Assistant and Assistant Law Officer were created in Ranchi Municipal Corporation vide Resolution No. 1949 dated 21.05.2010 issued by the Urban Development and Housing Department, Government of Jharkhand.

3. The State Government, vide notification dated 17.07.2014, framed the Jharkhand Municipal Service Cadre Rules, 2014 [hereinafter referred to as 'the Rules, 2014'], which did not contain any provision with respect to the appointment/promotion to the post of Legal Assistant/Assistant Law Officer/Law Officer. Subsequently, an amendment was made in the Rules, 2014 vide Jharkhand Municipal Service Cadre (Amendment) Rules, 2017 notified on 15.12.2017 and for the first time, 'Legal Cadre' was created in all the urban local bodies of Jharkhand (i.e. Municipal Corporation/Municipal Councils/Nagar Panchayats/Notified Area Committee) making the post of 'Legal Assistant' as the feeder post whereas the posts of 'Assistant Law Officer' and 'Law Officer' were made first and second promotional posts respectively.

4. The appellant represented the Ranchi Municipal Corporation for granting him promotion to the post of Assistant Law Officer. The Ranchi Municipal Corporation vide its letter no. 1758 dated 25.06.2018, forwarded the appellant's representation to the respondent No.2 wherein his designation was mentioned as 'Legal Assistant'. The Ranchi Municipal Corporation sent reminders to the respondent No.2 vide

letters dated 29.03.2019 & 18.11.2022 regarding promotion of the appellant to the post of Assistant Law Officer and in the said reminders also, his designation was mentioned as 'Legal Assistant'.

5. In the meantime, a coordinate Bench of this Court, vide order dated 23.01.2025 passed in W.P.(C) No. 5345/2022 with L.P.A. No. 375/2024, directed the Urban Development and Housing Department, Government of Jharkhand to quickly process proposals, if any, made by the Ranchi Municipal Corporation to promote Legal Assistants to the post of Law Officers. Thereafter, the Respondent No. 3 issued a letter dated 28.01.2025 to the respondent No.4 whereby the proposal sent for promotion of the appellant to the post of Assistant Law Officer was rejected stating that he did not fulfill the prescribed eligibility criteria for the said post. The appellant then filed a writ petition being W.P.(S) No. 926 of 2025, however, the said writ petition was dismissed by the learned Single Judge of this Court vide impugned order/judgment dated 24.02.2025 observing that the writ petitioner cannot claim promotion as Assistant Law Officer which is a post of Legal Cadre without entering into the said cadre and promoting him to the post of Assistant Law Officer would result in inter-cadre promotion.

6. Learned counsel for the appellant submits that when the appellant had joined the service, there was no post of 'Legal Assistant' in the Ranchi Municipal Corporation and he used to carry out the work of 'Assistant' in Legal Section under the supervision and direction of the Legal Advisor.

7. It is further submitted that despite creation of the posts of 'Legal Assistant' and 'Assistant Law Officer' in the Ranchi Municipal Corporation, no appointment/promotion was ever made on the said posts. The appellant was made to understand that since he was working on the post of 'Legal Assistant' on the date of creation of the said post and that he had

subsequently acquired the Degree of Bachelor of Law with due permission of the employer, he was deemed to have been appointed/absorbed as Legal Assistant in the Ranchi Municipal Corporation and as such he would be granted promotion to the post of 'Assistant Law Officer'.

8. It is further submitted that vide office order as contained in letter no. 3193 dated 19.07.2013, the appellant was made In-charge of Legal Section of the Ranchi Municipal Corporation and further, vide office order as contained in memo no. 195 dated 13.01.2016, he was given the charge of Legal Advisor in the Ranchi Municipal Corporation.

9. It is also submitted that the post of Legal Advisor under the Patna Municipal Corporation Act, 1951 is equivalent to the post of Law Officer created under the Jharkhand Municipal Service Cadre Rules, 2014.

10. Learned counsel for the appellant refers to a judgment rendered by the Hon'ble Supreme Court in the case of **Vinod Kumar & Ors. Vs. Union of India & Ors.**, reported in **(2024) 9 SCC 327** and submits that essence of employment and the rights thereof cannot be merely determined by the initial terms of appointment when the actual course of employment has evolved significantly over a period of time. In the present case, the respondents have all along treated the appellant as Legal Assistant and now it is highly unjustified on their part to take a stand that the appellant was never appointed as Legal Assistant.

11. It is contended that the learned Single Judge has failed to appreciate that in view of the Rules, 2014, the promotion matters have to be considered by the Promotion Committee and not by the respondent No.3 and as such the letter dated 28.01.2025 issued by the said respondent rejecting the appellant's claim, is wholly without jurisdiction.

12. It is further argued that there was no possibility of the appellant's appointment on the post of Legal Assistant which is a feeder post of Legal Cadre as at the time of his joining the service, there was no existence of the posts pertaining to Legal Cadre, rather the same were created for the first time vide notification dated 15.12.2017.

13. It is also urged that the pay scales of both the posts i.e. Assistant and Legal Assistant are the same and hence in any event, no distinction can be made between the original appointment of the appellant as an 'Assistant' and the subsequently created post of 'Legal Assistant'.

14. Per-contra, learned counsel for the respondent-Ranchi Municipal Corporation submits that the appellant was not appointed on the post of Legal Assistant and as such there was no question of granting him promotion to the post of Assistant Law Officer, which is the promotional post of Legal Assistant.

15. It is further submitted that merely because the petitioner has worked in the Legal Section for some period, he cannot be said to have acquired the right to be promoted on the post of Assistant Law Officer. Thus, the learned Single Judge, vide the impugned order dated 24.02.2025, has rightly rejected the appellant's claim to be promoted to the post of Assistant Law Officer and the same needs no interference of this Court.

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

17. The appellant was appointed on Class-III post in Ranchi Municipal Corporation vide memo no. 704 dated 09.05.1996 and he was subsequently posted as Assistant in Legal Section of the said Corporation and thereafter he worked in the said Section for a long period of time. The Urban Development Department, Government of Jharkhand, vide Resolution No. 1949 dated

21.05.2010, created several posts of different wings including the posts of Legal Assistant and Assistant Law Officer pertaining to 'Legal Wing' in the Ranchi Municipal Corporation and Dhanbad Municipal Corporation.

18. Further, Legal Cadre was created by the Urban Development and Housing Department, Government of Jharkhand vide Notification No. 7732 dated 15.12.2017 (Jharkhand Municipal Service Cadre (Amendment) Rules, 2017) wherein the post of Legal Assistant was made the feeder post. As per Schedule-1(Ja) of the said Rules, there has to be direct appointment to the post of Legal Assistant from the persons having qualification of graduation in law from a recognized University/Institution. The post of Assistant Law Officer has been made the next promotional post of Legal Assistant and the post of Law Officer has been made the next promotional post of Assistant Law officer.

19. The appellant has neither challenged the Resolution, by which the post of Legal Assistant was created nor he has challenged the Notification dated 15.12.2017 which, inter alia, provides that the post of Legal Assistant must be filled in from the direct recruitment and, that it is such Legal Assistants that should be considered for further promotions in the hierarchy of the introduced legal cadre. Without challenging these actions, the appellant cannot claim entry into the legal cadre as a Legal Assistant and on that basis, seek promotion to a higher post therein.

20. Admittedly, the appellant was never appointed as a Legal Assistant. Even after the creation of the post of Legal Assistant, the appellant was neither directly recruited nor absorbed (assuming that such absorption is possible as a Legal Assistant). Since the rules as they presently stand provide that the post of Legal Assistant is to be filled up by direct

recruitment, an advertisement followed by regular selection procedures would be the norm. The appellant cannot insist upon having entered the legal cadre as a Legal Assistant merely because in some correspondence, the appellant may have been referred to as a Legal Assistant, or merely because the appellant may have discharged certain duties having nexus with the duties that a Legal Assistant would normally discharge. Such a claim would not pass the muster of Article 16 of the Constitution of India which provides, inter alia, that all eligible candidates must have an equal and reasonable opportunity to be considered for a post which is required to be filled up by direct recruitment.

21. The appellant has relied upon a judgment of the Hon'ble Supreme Court rendered in the case of **Vinod Kumar** (Supra.). In the said case, the appellants were appointed on the ex-cadre posts of Accounts Clerks and they worked on the said posts for more than 25 years. Their claims for regularization on the permanent posts were rejected by the Central Administrative Tribunal and subsequently the High Court also rejected the said claim. The matter having travelled to the Hon'ble Supreme Court, Their Lordships have held that the essence of employment and the rights thereof cannot be merely determined by the initial terms of appointment, when the actual course of employment has evolved significantly over a period of time.

22. It has further been observed that the continuous service of the appellants of the said case in the capacities of regular employees, performing duties indistinguishable from those in permanent posts, and their selection through a process, which mirrors that of regular recruitment, constitute a substantive departure from the temporary and scheme-specific nature of their initial engagement.

23. The facts and circumstances of the present case are entirely different from those of **Vinod Kumar** (Supra.). In the said case, the subject matter was regularization of the appellants, who were appointed as temporary employees on the post of 'Accounts Clerks' and continuously worked for more than 25 years acquiring the regular status. However, in the present case, the appellant is claiming promotion to the post of Assistant Law Officer, which is a promotional post of Legal Assistant. The appellant proceeds on the basis that he is already a Legal Assistant simply because he claims to have discharged some duties as a Legal Assistant in the absence of a regularly recruited Legal Assistant or because in some correspondence, is referred to as Legal Assistant. In fact, he should not have been referred to as Legal Assistant, though such reference by itself, does not make the appellant a Legal Assistant. On that basis, the appellant seeks promotion to the post of Assistant Law Officer, for which the feeder cadre is that of the Legal Assistant. Such are not at all the facts in the case of **Vinod Kumar (Supra)** and therefore the decision in **Vinod Kumar (Supra)** cannot assist the appellant in the present appeal.

24. We are of the considered view that the cadre of a person will not automatically change. A cadre can only be changed in accordance with the rules and regulations pertaining to a particular department that too, by a written order of a competent authority.

25. In the case of **Nazir Ahmad v. King Emperor reported in 1936 SCC OnLine PC 41**, Privy Council has held that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.

26. In the present case, since the post of Assistant Law Officer is a promotional post of Legal Assistant, the said post cannot be claimed by the appellant merely on the ground that he has worked in the Legal Section for some period. Otherwise also, if the appellant is treated as Legal Assistant, it will cause serious prejudice to those, who are entitled to be considered for appointment to the post of Legal Assistant by direct recruitment, which is what the rules provide.

27. The appellant has put much reliance on the letters dated 25.06.2018, 29.03.2019 & 18.11.2022 whereby the Ranchi Municipal Corporation had forwarded his representation to the Urban Development and Housing Department, Government of Jharkhand requesting his promotion to the post of Assistant Law Officer by treating him as 'Legal Assistant'. We are of the firm view that the said letters did not create any right in favour of the appellant, rather his claim was required to be considered by the said department as per the Rules, 2014 as amended vide the Rules, 2017.

28. For the reasons as aforesaid, we do not find any infirmity in the impugned order dated 24.02.2025 passed in W.P.(S) No. 926 of 2025.

29. The present appeal being devoid of merit is, accordingly, dismissed.

30. No costs.

(M.S. SONAK, C.J.)

(RAJESH SHANKAR, J.)

24.06.2026
Satish/AFR

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