
(2011) 08 JH CK 0010

In the Jharkhand High Court

Case No : Writ Petition (S) No. 3419 of 2011

Ajay Kumar Mukheijee

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Bihar Pension Rules, 1950 — Rule 58, 59

Citation : (2012) 1 JCR 335

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Judgement

R.R. Prasad, J.—Heard learned counsel appearing for the petitioner and learned counsel for the respondents.

2. Learned counsel appearing for the petitioner submits that the petitioner was initially appointed on 20.12.1977, as District Employment Officer under the Labour and Employment Department, Government of Bihar. Patna. After rendering services for about more than one year, the petitioner joined Bihar Education Service, Class-II, on 7.4.1979. On being appointed, the petitioner handed-over the charge of his earlier post on 6.4.1979. After rendering services in the Bihar Education Service, Class-II for fairly long time got retired on 28.02.2010. Before being retired the petitioner had made representation before the authority for adding the period of services rendered as the District Employment Officer for the purpose of Pension. When nothing was done the petitioner after getting retired filed a representation before the Secretary, Human Resource Development Department, Government of Jharkhand, Ranchi, but that also did not bear any fruit and, therefore, the petitioner has come to this Court for a direction to the authority to take into account the period of service rendered from 20.12.1977 to 6.4.1979, for the purpose of Pension.

3. Learned counsel by referring to Rule 58 and Rule 59 of the Bihar Pension Rules, 1950, submitted that under Rule 58, one would be entitled to Pension provided he has rendered services against the sub-stantive post of the

Government and was being paid salary by the Government.

4. Learned counsel submits that admittedly the petitioner was under the employment of the Government while he was holding the Post of District Employment Officer and thereby he is entitled to have Pension for that period.

5. It was pointed out that similar view has been taken by this Court in a case of Lalmani Ekka Vs. State of Jharkhand and Others, .

6. It has been decided in the aforesaid case that by virtue of the provision contained in Rule 58 of the Bihar Pension Rules, one would be entitled to get period of service rendered in earlier department added with period of service rendered in other department provided that he had rendered services against the substantive post of the Government and was being paid salary by the Government which proposition gets clarified from a Notification No. 1399, dated 19.03.1990 issued by the Department of Finance which stipulates where an employee is in service of the State Government or in the Central Government or he worked in one Department of the Government or in other if he switches over the Department, he would be entitled to have the period of service earlier rendered counted for the purpose of Pension with the services rendered thereafter. The said circular is being invariably followed by the respondent. So far this (sic) is concerned there has been no dispute that the petitioner was holding the substantive post in the Government. Thus, the petitioner is entitled to get relief sought for.

7. In the result the respondent is directed to do needful in the matter of fixation of the Pension taking into account the entire length of service including the period of service rendered while he was posted as the District Employment Officer from 20.12.1977 to 06.04.1979. The respondent is further directed to make payment of the post retrieval dues on revised Pension which would be fixed in terms of the order of this Court.

8. In the meantime, it is expected that the amount of the Travelling allowance to the extent of Rs. 38,580/- which has already been sanctioned by the competent authority would be paid to the petitioner by the respondent i.e. respondent No. 6 (the Treasury Officer, Ranchi), if there would be no legal impediment.

9. Thus, this writ petition is disposed of.