
(2014) 11 JH CK 0102
In the Jharkhand High Court
Case No : W.P. (S) No. 2178 of 2010

Ajay Prasad

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 17-11-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 120-B, 387, 420

Citation : (2015) 1 JLJR 506

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Ritu Kumar and Manoj Kumar Sah, Advocates for the Appellant;
Nehala Sharmin, Advocates for the Respondent

Judgement

Sujit Narayan Prasad, J.—The petitioner being aggrieved with the order dated 8.3.2010 has approached this Court by which his contractual appointment to the post of Pharmacist, Primary Health Centre, Poraiyahat, District-Godda has been taken away on the ground of judicial custody. Learned counsel for the petitioner has submitted that the petitioner although was appointed on contract basis in the year 2003 with certain conditions, for which, an agreement was entered into between the department and the petitioner wherein there is specific condition for removing the contractual appointee from service by giving two months prior notice or if the service of petitioner is not satisfactory. The petitioner was falsely implicated in a criminal case being P.S. Case No. 42/10 for the offence registered under Sections 387, 420, 120-B of the Indian Penal Code and thereafter, the petitioner was taken into judicial custody on that ground, the contract of the petitioner was cancelled w.e.f. 24.2.2010. It has been submitted on behalf of the counsel for the petitioner that subsequently, the petitioner has been acquitted in criminal case vide judgment dated 27.4.2012 (Annexure-6). It has been further submitted that the result of the said criminal case was brought to the knowledge of the concerned authority by filing representation on 2.5.2012 for renewal of contractual appointment but order dated 5.6.2012 has been passed by the respondents denying his appointment. Learned counsel for the petitioner has

further submitted that the order dated 5.6.2012 is absolutely non-speaking order. The ground taken by the respondents in the impugned order dated 8.3.2010 is that the petitioner was taken into judicial custody and as such contract was not renewed. Since the petitioner has been honourably acquitted from all the charges levelled in the criminal case, the contract of the petitioner can be renewed. Therefore, It is a fit case that the petitioner's contract ought to have been renewed but concerned authority i.e. Chief Medical Officer, Godda has considered all aspect of the matter in one line and simply communicated the decision of Deputy Commissioner, Godda.

2. On the other hand, respondents has submitted that since the appointment of the petitioner was on contract basis, the petitioner has no right to remain on contract, as such the authorities have arrived at decision not to renew the contract of the petitioner even though the petitioner has acquitted from the charges levelled in the criminal case.

3. Heard the parties.

4. Admittedly, the petitioner was taken on contract in the year 2003 and thereafter the contract was extended after considering the satisfactory performance of the petitioner. However vide order dated 8.3.2010 the contract of the petitioner has been cancelled on the ground of judicial custody commencing from 24.2.2010. According to judgment passed in a criminal case vide judgment pronounced by the court below dated 27.4.2012 wherein specific finding has been given which is extracted below:--

"Under the circumstance and in view of the findings as recorded hereinabove, this Court finds and holds that the prosecution has not been able to prove its case against the accused persons on the basis of its evidence on the record. Rather, the prosecution has miserably failed in this regard. Accordingly, the charge against the accused persons are also not made out and proved and the accused persons are held not guilty for the same. In the result, all the accused persons namely Ajay Prasad, Suman Jha and Raju Singh are acquitted of the charges against them. As they are enjoying the privilege of bail, their bail bonds are discharged. The sureties are also discharged of their liabilities."

5. The petitioner has been acquitted from the charges in a criminal case and thereafter, the petitioner gave representation on 2.5.2012 to the authorities concerned for review of their decision on the basis of his acquittal in a criminal case. However, the said representation dated 2.5.2012 was not considered as the Deputy Commissioner, Godda has taken a decision not to consider the case of the petitioner for his engagement on contract and thereafter the order dated 5.6.2012 has been passed. From perusal of the order dated 8.3.2010 and also the order dated 5.6.2012, it is apparent that authorities concerned has not assigned any reason rejecting the claim of the petitioner.

6. It is settled principle of law that the any authority passing an order on the basis of the claim, which has been made by the party, it is the duty of the

competent authorities to assign the reason.

7. Reliance can be placed upon the Judgment of Apex Court in the case of Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and Others, , wherein at Para 8, it has been held on follows:--

"The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in S.N. Mukherjee v. Union of India, is that people must have confidence in the judicial or quasi-judicial authorities. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimises the chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation."

8. Since the decision of the committee dated 8.3.2010 and 5.6.2012 is without any reason, hence both the decisions are not sustainable in eye of law, which is hereby quashed.

9. In consequence thereof, the petitioner is directed to file a fresh representation before the competent authority with all supporting documents regarding his claim within a period of three weeks. The competent authority is directed to pass a reasoned order on the representation of the petitioner within two weeks thereafter in accordance with law. Accordingly, this writ petition is disposed of with the aforesaid direction.