
(2012) 07 JH CK 0158
In the Jharkhand High Court
Case No : WP (S) No. 1106 of 2007

Ajit Kumar Modi	Vs	APPELLANT
The State of Jharkhand and Others		RESPONDENT

Date of Decision : 03-07-2012

Acts Referred:

Citation : (2012) 4 JCR 612 : (2012) 4 JLJR 18

Hon'ble Judges : Prakash Tatia, C.J.;Jaya Roy, J

Bench : Division Bench

Advocate : P.C. Tripathy, for the Appellant; A.R. Choudhary for the High Court, Mr. S. Prasad for the State, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard counsel for the parties. Learned counsel for the petitioner submitted that the petitioner was holding the post of Civil Judge, Junior Division and was posted as Judicial Magistrate at Saraikela at the relevant time and submitted an application seeking voluntary retirement, which was dated 1st August, 2006, with effect from 31st August, 2006. The petitioner's application for voluntary retirement was rejected on 11.8.2006 and thereafter the petitioner was compulsorily retired by order dated 24.8.2006 by invoking powers under Rule 74(b)(ii) of the Jharkhand Service Code, 2001. The petitioner, therefore, has challenged both the orders, i.e., order dated 11.8.2006 rejecting his prayer for voluntary retirement and the order dated 24.8.2006.

2. The only point canvassed before us by the learned counsel for the petitioner is that the petitioner was not given an opportunity of hearing before passing the order of compulsory retirement dated 24th August, 2006. It is submitted that the petitioner's application seeking voluntary retirement was also rejected without giving any opportunity of hearing.

3. As per the counter affidavit filed by the High Court, it appears that petitioner's application seeking voluntary retirement was rejected on 11th August, 2006 and

before dealing with the application seeking voluntary retirement submitted by the petitioner, petitioner in one of the departmental inquiries found guilty and order of censor was passed against him; thereafter some complaints were received, upon which petitioner's service record was considered and the impugned decision was taken to make the petitioner retire by invoking powers under Rule 74(b)(ii) of the Jharkhand Service Code, 2001, on 28th July, 2006. It is also submitted by the learned counsel for the respondent that in a matter of proceeding for compulsory retirement, no personal hearing or even otherwise any hearing is required. It is further submitted that the order of compulsory retirement is not a stigma and therefore, also hearing is not required and law is settled on this point. The petitioner since was retired on 24.8.2006, the petitioner's application seeking voluntary retirement also otherwise could not have been allowed in view of the fact that the petitioner sought voluntary retirement from 31.8.2006; before that date, the petitioner was retired by lawful order.

4. We considered the submissions and arguments of the learned counsel for the parties and perused the relevant orders.

5. Upon seeking voluntary retirement, the employee may seek consideration of his application and that has been considered and thereafter his application was rejected. And in the facts of the case, it is clear from the dates mentioned above that even before the petitioner's application for voluntary retirement came under consideration before the Court, the Court took a decision to retire the petitioner compulsorily and in a matter of compulsory retirement, no opportunity of hearing is required and the Court is required to consider the entire service record including good and bad entries and relevant circumstances for passing the order. In view of the only ground raised of not giving opportunity of hearing, we are of the considered opinion that the order of compulsory retirement issued to the petitioner by the State Government upon recommendation made by the High Court is in consonance with the decision taken by the Court and there is no illegality in the order of compulsory retirement and the petitioner's request for voluntary retirement was also rightly rejected. Learned counsel for the petitioner submitted that the petitioner may not have been given consequential benefits, to which he may be entitled even after his compulsory retirement. For this, the petitioner is free to submit his representation, which may be considered by the High Court.

This writ petition has no merit and hence is dismissed.