
(2020) 08 JH CK 0245

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2136 Of 2019

Akhileshwar Pandey

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 26-08-2020

Acts Referred:

Citation : (2020) 08 JH CK 0245

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Rajendra Krishna, Sreenu Garapati

Final Decision : Disposed Of

Judgement

1. Heard Mr. Rajendra Krishna, the learned counsel appearing on behalf of the petitioner and Mr. Sreenu Garapati, the learned SC-III appearing on behalf of the respondent-State.
2. This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic.
3. The petitioner has preferred this writ petition for a direction upon the respondent no.3 to issue No Dues Certificate in favour of the petitioner taking into consideration the fact that the petitioner has retired on 31.01.2019.
4. Mr. Rajendra Krishna, the learned counsel appearing on behalf of the petitioner submits that the petitioner has retired on 31.01.2019 and he has already handed over the charge. By way of referring Annexure-4 at page 36, he submits that pursuant to the order of the General Manager of the Factory dated 22.11.2018, the petitioner has complied and in view of Annexure-5 the complete charge has been handed over on 04.12.2018 to Mr. Ekram Hussain. On the said document, the signature of Mr. Akhilesh Pandey and Ekram Hussain are there. He further refers to page 53 of Annexure- 6 to the writ petition and submits that handing

over and taking over of the charges has already taken place in view of Annexure-6 which is counter signed by the General Manager. He further submits that the Accountant General has already sanctioned the commutation of pension and gratuity which is contained at Annexure-9 series. He further submits that inspite of the sanction by the Accountant General, benefit of the same is not received by the petitioner in view of No Dues Certificate which has not been issued by respondent no.3.

5. On the other hand, Mr. Garapati, the learned State counsel submits that the petitioner has not fully submitted the charge and in that view of the matter No Dues Certificate is not being released in favour of the petitioner. He further submits that the petitioner has not handed over the full charge and that is why the No Dues Certificate has not been issued. He further submits that in view of the further counter affidavit, certain documents have not been handed over by the petitioner. This fact has come into the knowledge of the respondent no.3 that a letter by the wife of the deceased employee namely, Akhilesh Yadav has been received. He submits that in that view of the matter, the No Dues Certificate has not been issued.

6. The Court has perused the Annexure-4 and 5 which are the documents which suggest that the petitioner was asked to hand over the charge to one Mr. Pandey. The documents which suggests that Ekram Hussain was directed to receive the charge. The said document also suggest that it is complete. Annexure-6 is the document wherein it is said that handing over and taking over has been taken place and it has been counter signed by the General Manager. The documents annexed with the further counter affidavit pursuant to the last order of this Court, at page 37, which also suggests that the Committee has found one Mr. Pandey has signed the document which has been also signed by the Mr. Ekram Hussain, by letter dated 06.02.2019 which is addressed to the General Manager. There is no departmental proceeding pending against the petitioner. The petitioner has already retired. The document on the record suggests that the handing over and taking over of charge has been taken place. Since the retirement benefit has already been sanctioned in view of the Annexure-9 series there is no occasion why No Dues Certificate cannot be issued in favour of the petitioner. It is in the domain of the respondent State to proceed in accordance with the rules, regulations and guidelines if there is any misconduct on the part of the petitioner and even after retirement there is provision under the rules to proceed departmentally. In that view of the matter the petitioner cannot be allowed to suffer, particularly taking into account that Annexure-9 series has been passed whereby retirement benefit has been sanctioned.

7. Accordingly, respondent no.3 is directed to release No Dues Certificate in favour of the petitioner within 8 weeks from the date of receipt /production of a copy of this order.

8. The respondent-State is at liberty to proceed in accordance with the rules, regulations and guidelines with regard to the retired employee if they come to

the conclusion that there is misconduct on the part of the petitioner.

9. With the above observation and direction, the instant writ petition [W.P. (S) No. 2136 of 2019] stands disposed of.

10. I.A. if any also stands disposed of.