
(2002) 08 JH CK 0046
In the Jharkhand High Court
Case No : CWJC No. 2284 of 1993 (R)

Anand Ballabh Shaynam

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 13-08-2002

Acts Referred:

Citation : (2002) 08 JH CK 0046

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : B.K. Dubey, for the Appellant; Ritu Kumar, GP IV, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—This writ petition has been preferred by the petitioner for direction on the respondents to pay him the salary in the scale of Mechanical Engineer on the principle of "equal pay for equal work".

2. The case of the petitioner is that he was appointed in the Plant of Bihar State Mineral Development Corporation Ltd. (Corporation for short), vide Memo No. 5367 dated 8th December, 1988, as Mechanical Engineer on consolidated wage of Rs. 1500/- per month. It was extended from time to time, vide Annexure 1 series and vide Memo No. 395 dated 24th January, 1990, he was ordered to continue in service until further orders.

3. According to the petitioner, there is a sanctioned post of Mechanical Engineer under the Corporation, which was sanctioned some time in the year 1991 in the then scale of Rs. 2200-4000/- Though the respondents are taking work from the petitioner as Mechanical Engineer, but he has not been appointed on regular basis against the sanctioned post, nor is being paid the minimum of scale of pay on the post of Mechanical Engineer.

4. It appears that the Corporation vide its letter No. 2034 dated 14th August, 1992, referred the matter to the Secretary, Mines and Zoology Department, Govt. of Bihar, Patna. The Corporation pointed out Regulation No. 34(2), wherein it is stipulated that no person shall act or continue to act or to be appointed as a

Manager of Mine or Mines where work is being carried on system of deep hole blasting and/or with the help of heavy machinery for digging, excavation and removal etc. of earth stone mineral or other materials unless he holds a first class managers certificate. It was pointed out that for project, three first class mining manager and as per Factory Act, one Mechanical Engineer are required.

5. It was brought to the notice of the State authority that certain officers who were already in employment, have been removed and posts were lying vacant and three first class Mining Managers and one Mechanical Engineer were required to be appointed permanently in the scale of Rs. 2200-4000/- or Rs. 3000-4500/- or Rs. 3,500-5000/- as per qualifications.

It is alleged that in spite of the same, no specific intimation has been given by the State, nor the services of the petitioner have been regularized. The Corporation has merely taken plea that the Board of Directors have no authority to appoint a person against a Class I post paying salary of Rs. 2000/- or more without sanction or approval of the Bureau of Public Enterprises and Mines Department of the State.

6. No counter-affidavit has been filed on behalf of the State.

7. Now on reorganization of the State and creation of the State of Jharkhand as the matter relating to regular appointment of petitioner/regularization against a post of Mechanical Engineer is required to be determined with the approval of the State of Jharkhand as such, the competent authority of the Corporation is directed to take up the matter with the Secretary, Mines and Zoology or the appropriate department of the State of Jharkhand, if the petitioner is still in service and has not been appointed against a regular post.

8. A decision relating to regular appointment/regularization of his service be taken and communicated to the petitioner within four months from the date of receipt/ production of a copy of this judgment.

9. In the mean time, the petitioner be provided at least the minimum of the scale of pay of the post of Mechanical Engineer and other admissible allowances on the principle of "equal pay for equal work", if he is still in service.

10. The writ petition stands disposed of with the aforesaid observations and directions. However, there shall be no order, as to costs.