
(2002) 01 JH CK 0013
In the Jharkhand High Court
Case No : WP (S) No. 2441 of 2001

Balmiki Sharma

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-01-2002

Acts Referred:

Citation : (2006) 1 JCR 364a

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

Bench : Single Bench

Advocate : J. Dubey, for the Appellant; Mahesh Kumar Sinha, JC to AAG, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—Heard the parties. The petitioner who was in the services of the respondent-State, retired on 31st May, 2000, as Chargeman Grade-I from the office of the respondent-Executive Engineer, Public Health Engineering Department, Hatia Project, Ranchi. After retirement, he having not been paid the total retiral benefits, had to move this Court in CWJC No. 1032 of 2001, which was disposed of on 19th March, 2001 with a direction to the respondents to pay the petitioner admitted retiral benefits. In pursuance of such direction, when the respondents-Executive Engineer, took up the matter for payment of retiral benefits, issued the impugned orders, a contained in Memo No. 427 dated 3rd May, 2001 (Annexure-5) and pay fixation statement (Annexure-5/A). It will be evident that the Executive Engineer, Public Health Division, Hatia Project, Ranchi, by the impugned orders fixed the pay of the petitioner in the scale of Rs. 3050-4590/-, which is the grievance of the petitioner.

2. According to the petitioner, he was rightly provided replaced scale of Rs. 4000-6000/-, while in service, so after his retirement for the purposes of calculating the pension, it could not have been refixed in the lower scale of Rs. 3050-4590/-. It is alleged to have been issued in violation of the Rules of natural justice, the petitioner having not been noticed.

3. The respondents in their counter affidavit, have justified the action and stated that the pay scale of the Chargeman was fixed in the scale of Rs. 3050-4590/- vide Finance Department's letter No. 660/ F-II dated 8th February, 1999. However, no document, has been enclosed in support of such statement.

4. The petitioner has enclosed a copy of the extract of recommendation of one or other pay Revision Committee's report to suggest that his pay was properly fixed. Counsel for the petitioner also produced the Government of Bihar, Finance Department's resolution No. 660/F-II dated 8th February, 1999, whereby and whereunder, replacement scale was allowed to the State Government employees.

5. It is not in dispute that the Chargeman Grade-I were earlier provided with pay of Rs. 296-423/-. Their pay was revised after the recommendation of 4th Pay Revision Committee to Rs. 1200-1800/-, which was the pay, allowed to the petitioner. In Resolution No. 660/F-II dated 8th February, 1999, no replacement scale has been shown for the Chargeman Grade-I, from the corresponding scale, granted to the Work Charge employees it is apparent that the Chargeman Grade-I, who were in the pay scale of Rs. 1200-1800/- were provided the replaced scale of Rs. 4000-6000/-.

6. Further the petitioner having been paid salary in the scale of Rs. 4000-6000/-, after his retirement, for the purposes of fixation of pension, the respondents could not have fixed the pay in the lower scale of Rs. 3050-4590/- that too without notice to the petitioner.

7. For the reasons aforesaid, the fixation as made by the Executive Engineer, Public Health Division, vide Memo No. 427 dated 3rd May, 2001 and statement, contained in Annexure-5 and 5/A, being illegal, both are hereby set aside. The case is remitted with a direction to the respondents to finalise the retiral benefits of the petitioner, like pension etc., taking into consideration the last pay drawn by the petitioner.

8. The writ application is allowed accordingly.