
(2003) 08 JH CK 0063

In the Jharkhand High Court

Case No : Writ Petition (L) No. 5171 of 2002

Bhupati Lal Das

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 20-08-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 4 JCR 678

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : Sujit Narayan Prasad, for the Appellant; Ritu Kumar, GP-IV, for the Respondent

Judgement

Tapen Sen, J.—Admittedly the petitioner was suspended on 8.2.1996 on account of financial irregularities. More than five years passed but no action was taken by the respondents either to revoke the order of suspension or to initiate departmental action. Accordingly, the petitioner came up before this Court vide WP (S) No. 2777 of 2001. That Writ petition was disposed off by an Order dated 2.8.2001 and an observation was made that since there was nothing on record to suggest that cognizance had been taken against the petitioner in one or other criminal case or that departmental proceeding was pending, the suspension of the petitioner was ordered to be revoked with immediate effect. That order is contained in Annexure-1.

2. Thereafter, the petitioner gave his joining by Annexure-3 and the learned counsel for the petitioner has stated that he is being paid salary with effect from 2.8.2001 but nothing has been paid for the period prior to 8.2.1996 i.e., from the date of suspension till 1.8.2001.

3. Heard Mr; Sujit Narayan Prasad, learned counsel for the petitioner and Mrs. Ritu Kumar, learned GP-IV and with their consent this writ application is being disposed off at this stage.

4. From the sequence of event narrated hereinabove, it will be apparent that as a consequence of revocation of the order of suspension, the respondents issued an office order dated 29.4.2002 which is contained in Annexure-5, wherein while formally revoking the order of suspension, the Joint Secretary, Department of Animal Husbandry and Fishery has stated that the period in relation to the time spent during suspension i.e., 8.2.1996 to 1.8.2001 shall be dealt later on.

5. Considering the fact that this Court in the earlier writ application had already quashed/revoked the order of suspension after having given a finding that there was nothing on record to suggest there being anything against the petitioner and also to the effect that there was no departmental proceeding, there should have been no difficulty on the part of the respondents in taking a decision in respect of the aforementioned period. The Joint Secretary should not have deferred the matter indefinitely and the attempt on the part of the officer concerned shifting the responsibility upon this Court as has been made in paragraph-8 is deprecated because he has merely said that "as far as the period from 8.2.1996 to 1.8.2001 is concerned, the same could not be paid as the same is not covered by the order dated. 2.8.2001.

6. Why is it that for every matter a person must necessarily come to this Court? Why cannot Senior Officers of the Government take independent decision and that too, when after earlier Order of this Court, a decision was to be taken by a logical interpretation of that order. The only logical interpretation is that there is nothing against the petitioner as was found by this Court and therefore, salary for that period should not have been withheld.

7. For the foregoing reasons therefore, the matter is remanded to the same authority who has passed that order i.e., the Secretary, Department of Animal Husbandry and Fishery, Government of Jharkhand to pass a fresh order in accordance with law. In order to facilitate and expedite the matter, it will be the duty of the petitioner to file a fresh representation along with a copy of this order within a period of two weeks from today and if the same is filed, the authority shall take a decision within a period of six weeks. It goes without saying that if the authority concerned comes to a finding that the payment is to be made, the same shall be released forthwith.

8. With the aforesaid observations and directions, this writ application is disposed off. There shall however be no order as to costs.