
(2002) 01 JH CK 0068

In the Jharkhand High Court

Case No : CWJC No's. 1102 of 2000 and 1627 of 2001

Bindeshwar Choudhary

APPELLANT

Vs

State of Bihar and Jharkhand

RESPONDENT

Date of Decision : 02-01-2002

Acts Referred:

Citation : (2002) 01 JH CK 0068

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : S.K. Laik, in CWJC No. 1102/2000 and A.K. Sinha, in CWJC No. 1627/2001, for the Appellant; V. Shivnath, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—It is unfortunate that the respondents appeared in this case and filed vakatnama in June, 2001 but on call none appears on behalf of the respondents. However, after a while, in course of argument on behalf of the respondent, Mr. V. Shivnath appeared and prayed for time for filing counter affidavit. Since more than six months have passed and no counter affidavit has been filed, I am not inclined to grant further time for filing counter affidavit.

2. I have heard Mr. A.K. Sinha, learned Sr. counsel appearing on behalf of the petitioner and Mr. V. Shivnath learned counsel on behalf of the respondents.

3. The petitioner has prayed for in CWJC No. 1627/2001 for quashing the order dated 2.2.2001 by which he has been dismissed from service by virtue of a departmental proceeding initiated against him. It appears that the petitioner was charge sheeted on the allegations of not vacating the rooms occupied by him in a Guest House, non-compliance of the order with regard to joining at the Head Quarters during the period of suspension and not handing over the charge of Toy Development Centre.

4. Mr. A.K. Sinha, learned Sr. counsel assailed the impugned order mainly on the ground that the petitioner was never called upon to participate in the

departmental proceeding nor was he informed about the submission of the inquiry report. He was also not supplied copy of the inquiry report nor a second show cause notice was issued to him.

5. From perusal of the impugned order also it does not appear that the Enquiry Officer, after giving opportunity of hearing to the petitioner, conducted the inquiry and submitted his report. It also does not appear that copy of the inquiry report was given to the petitioner and second show cause notice was issued to him.

6. Mr. V. Shivnath, learned counsel appearing for the respondents, submitted that even assuming that the proceeding was not conducted in accordance with law, this Court can direct the respondents to proceed afresh in the departmental proceeding and on that ground the petitioner cannot be exonerated from the charges.

7. As noticed above, admittedly the Enquiry Officer has not proceeded with the enquiry in accordance with the settled principles of law and in compliance of the principles of natural justice. It is also clear that copy of the inquiry report was not supplied to the petitioner nor was he given second cause notice.

8. On these grounds the order of termination cannot be sustained in law. This writ application is, therefore, allowed and the impugned order of dismissal of the petitioner from service is quashed. The respondents are directed to proceed afresh with the departmental proceeding for which charge has already been given to the petitioner and take a decision in accordance with law. So far the arrears of salary since 1994 as claimed by the petitioner in CWJC No. 1102/2000 is concerned, I direct the petitioner to file a detailed representation before the Managing Director, respondent No. 2 who shall consider the claim of the petitioner and if it is found that the petitioner has worked, then necessary order shall be passed for payment of salary.