
(2005) 08 JH CK 0019
In the Jharkhand High Court
Case No : WP (S) No. 3074 of 2005

Brahmadeo Prasad Yadav

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-08-2005

Acts Referred:

Bihar Reorganisation Act, 2000 — Section 72(2)

Citation : (2005) 4 JCR 187

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

Bench : Single Bench

Advocate : Rajiv Ranjan, for the Appellant; J.C. to A.G., for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—By impugned Chatra District Order No. 1009/04, contained in Memo No. 893 dated 19th October, 2004, the 4th respondent-S.P. Chatra informed the petitioner that he will retire w.e.f. 1st November, 2004 having attained 58 years of age. The said order has been challenged by the petitioner on the ground that the age of superannuation has been enhanced from 58 to 60 years by the Government of Jharkhand's Resolution No. 5826 dated 26th October, 2004.

2. Earlier, it was brought to the notice of the Court that another similarly situated person, namely, Mr. Sherjahan Khan was also made to retire on attaining the age of 58 years w.e.f. 1st November, 2004, the date on which petitioner was made to retire. Later on, S.P. Chatra having noticed the Government of Jharkhand's Resolution No. 5826 dated 26th October, 2004 recalled his superannuation order, reinstated him (Mr. Sherjahan Khan) and allowed him to continue in service but no such order has been passed in respect to petitioner and thereby he was discriminated.

3. The S.P. Chatra appeared and filed affidavit. While he informed the Court that he joined recently on 8th November, 2005, stated that the impugned orders were

passed by his predecessor. It was submitted that the name of petitioner having been shown in the tentative final allocation list by State Advisory Committee allocating his service in the State of Bihar, in his case, the benefit of Government of Jharkhand's Resolution No. 5826 dated 26th October, 2004 was not given.

4. Admittedly, after Re-organization of the State, the petitioner was functioning under the State of Jharkhand. By the end of October, 2004, while resolution No. 5826 dated 26th October, 2004 was issued by the Government of Jharkhand enhancing the age of superannuation of its employees from 58 to 60 years, petitioner being an employee of Government of Jharkhand as on 26th October, 2004, was entitled for such benefit.

5. It is not in dispute that even by October, 2004, the competent authority i.e., Central Government had not issued any Notification u/s 72(2) of the Bihar Re-organisation Act, 2000 finally allocating the services of petitioner to the State of Bihar. Therefore, it was not open to S.P. Chatra to deny the benefit of enhancement of age of superannuation to petitioner as was given by Government of Jharkhand's Resolution No. 5826 dated 26th October, 2004.

6. Further, as admitted by the parties, the Central Government issued Notification u/s 72(2) on 17th April, 2005, which was communicated on 11th May, 2005. By the time, the final notification was issued allocating the services of petitioner to the State of Bihar Government of Bihar also issued Resolution NO. 1500 A(2) dated 24th March, 2005 enhancing the age of superannuation from 58 to 60 years.

7. From the facts aforesaid, it is evident that the petitioner being in the services of the State of Jharkhand, was entitled to continue beyond 1st November, 2004 in pursuance of Government of Jharkhand's Resolution No. 5826 dated 26th October, 2004. After final allocation of his service under the State of Bihar as was made after 11th May, 2005, he was also entitled to continue in service up to the age of 60 years in view of Government of Bihar's Resolution No. 1500A(2) dated 24th March, 2005.

8. Having regard to the facts and circumstances, the Chatra District Order No. 1009/04, contained in Memo No. 893 dated 19th October, 2004 cannot be upheld, which is, accordingly, set-aside. In effect, the petitioner stands reinstated in the services of the State of Jharkhand w.e.f. 1st November, 2004 and stood transferred under the State of Bihar from June, 2005 when formal relieving order stated to have been issued. He will be entitled for the arrears of salary of the intervening period (November, 2004 to June, 2005) to be paid by S.P. Chatra and salary of the subsequent period to be paid by Government of Bihar, within four months from the date of receipt/ production of a copy of this order.

9. This writ petition is allowed, with the aforesaid observations and directions. However, in the facts, and circumstances, there shall be no order as to costs.