
(2001) 10 PAT CK 0021
In the Patna High Court
Case No : C.W.J.C. No. 8124 of 2000

Dinbandhu Pandey

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 17-10-2001

Acts Referred:

Citation : (2002) 1 PLJR 263

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Pramod Mishra and Vivek Kumar, for the Appellant; A.K. Singh, for the Respondent

Final Decision : Allowed

Judgement

Narayan Roy, J.—Heard learned Counsel appearing on behalf of the Petitioner and learned Counsel appearing on behalf of the State and also considered the counter affidavit filed on behalf of the State.

2. By this application, the Petitioner has prayed for quashing of order dated 1.7.2000, issued vide memo No. 102 dated 1.7.2000, as contained in Annexure 6, whereby and whereunder the Petitioner has been reverted as a daily rated worker from the post of work charge establishment.

3. It is submitted by learned Counsel appearing on behalf of the Petitioner that the Petitioner earlier was working under the Respondents on daily rated basis since long and vide order, as contained in Annexure 3 dated 18.4.1988, the Petitioner along with several other similarly situated persons were appointed under work charge establishment against a scale and the Petitioner worked in the work charge establishment since 18.4.1988 and all of a sudden, the order impugned, as contained in Annexure 6, was issued reverting him upon the post of daily rated worker. Learned Counsel appearing on behalf of the Petitioner, therefore, submitted that order impugned is wholly without jurisdiction and also violative of the principles of natural justice.

4. A counter affidavit has been filed on behalf of the Respondents stating therein that the Petitioner's appointment in work charge establishment itself was illegal, and, therefore, he has been reverted back to the post of daily wages employees and the action of the State Respondents is protected by the circular issued by the State Government, as contained in Annexure A to the counter affidavit. It is further submitted by learned Counsel appearing on behalf of the Respondents that a decision was taken through the Finance Department Circular No. 6394 dated 23.10.1987, as contained in Annexure A to the counter affidavit, saying that only those work charge employees, who have completed five years in work charge establishment without any serious allegation prior to 21.10.1984 their services can be regularised in regular establishment and no post can be created in work charge and regular establishment after 21.10.1984.

5. On reading of the circular, as contained in Annexure A to the counter affidavit, it appears that it is a circular for regularising the services of the work charge employees in work charge establishment. The stand taken by the State is just contrary to the circular, as contained in Annexure A, as instead of regularising the services of the employees of work charge establishment the Petitioner has been reverted as a daily rated employee. Even assuming that the work of the Petitioner under the work charge establishment was not found satisfactory and he was not even eligible for the post as such at the time of appointment in the year 1988, the Petitioner could not have been reverted back as a daily rated employee after serving in the work charge establishment for about 12 years. Nothing is discernible from the order as contained in Annexure 6 as to what weighed before the authorities in passing the order impugned. Since the Petitioner has served as an employee in the work charge establishment for about 12 years, in my opinion, the order impugned, as contained in Annexure 6, must be held to be violative of the principles of natural justice and also the principles of equity. For the reasons aforementioned, the order, as contained in Annexure 6, is not sustainable in law.

6. In the result, this application is allowed, order impugned, as contained in Annexure 6, is quashed and the Petitioner is directed to be reinstated as an employee of work charge establishment, where he was functioning from before. It is needless to say that all consequential benefits shall be extended to the Petitioner.

7. No order as to costs.