
(2004) 04 JH CK 0068
In the Jharkhand High Court
Case No : WP (S) No. 6939 of 2002

Dr. Deovrat Verma

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 06-04-2004

Acts Referred:

Bihar Pension Rules, 1950 — Rule 43
Constitution of India, 1950 — Article 226

Citation : (2004) 2 JCR 528

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : A. Allam, V. Shivanath, for the Appellant; GP-III, for the Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—The prayer of the petitioner in this writ petition are two folds, Firstly, a departmental proceeding pending against him be quashed pursuant to the order dated 11.8.2000 passed in CWJC No. 7375 of 2000 contained in Annexure-5 to the writ petition. Secondly, for a direction to the respondents to pay dues like Gratuity leave encashment amount and half salary during the suspension period and to give other service benefits which the petitioner is entitled to.

2. It appears that the petitioner was an accused in Fodder Scam case instituted by the CBI i.e., in R.C. Case No. 59(A)/96. Thereafter, the petitioner was put under suspension and a departmental proceeding was initiated against him. Since the departmental proceeding was continuing for about one year, the petitioner along with Dr. Binod Kumar and others filed CWJC No. 7375 of 2000 before the Patna High Court which was withdrawn by the petitioners with a liberty to challenge the proceeding if it is not decided on an early date (one year).

3. While disposing the said writ petition vide order dated 11.8.2000 the Patna High Court permitted the writ petitioner to withdraw the said writ petition after

observing that so far as the petitioner Dr. Deovarat Verma is concerned, (who is the petitioner in the present writ petition), considering the fact that he has retired from service, the proceeding be treated under Rule 43(b) of the Bihar Pension Rules, if permissible. It was further observed that the Dr. Deovarat Verma may ask for retiral benefit from the competent authority.

4. The Grievance of the petitioner in this writ petition is that though his suspension order was revoked but the departmental proceeding is still continuing, which according to order as contained in Annexure-5 passed by the Patna High Court, the said departmental proceeding pending against him, is liable to be quashed and the petitioner is entitled to be paid his retiral benefits.

5. Therefore, it appears that the petitioner has based his whole case on the basis of the order passed by the Patna High Court on 11.9.2000 contained in Annexure-5 to the writ petition.

6. As it appears from the said order of the Patna High Court, the said writ application which was filed by- the petitioner and others was allowed to be withdrawn considering the fact that the petitioners had already retired from service. It was observed that the departmental proceeding against the present petitioner be treated to be a proceeding under Rule 43(b) of the Bihar Pension Rules, if permissible and so far as the payment of retiral benefits is concerned, it was observed that the petitioner may ask for retiral benefits from the competent authority.

7. In the present case it has not been stated by the petitioners that after the said order of the Patna High Court the petitioner, filed any application/representation before any competent authority asking for his retiral benefits pursuant to the order of the High Court. It does not appear from the impugned order of the Patna High Court that there was any direction to conclude the departmental proceeding against the petitioner under Rule 43(b) of the Bihar Pension Rules, therefore, the prayer of the petitioner for quashing of the departmental proceeding on the ground of non-conclusion of the departmental proceeding pursuant to the order of the Patna High Court is wholly misconceived.

8. Accordingly this writ petition is dismissed having no merit.

9. However, the petitioner, if so advised, as per the order of the Patna High Court contained in Annexure-5, may file representation before the Competent Authority for payment of retiral benefits which shall be considered by the authority concerned on its own merit and if it is found that the petitioner is legally entitled to have the said dues, necessary orders for payment be passed as expeditiously as possible.