

(2011) 03 JH CK 0096
In the Jharkhand High Court
Case No : Cont Case (Civil) No. 106 of 2011

Dr. Lal Mani Prasad

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 23-03-2011

Acts Referred:

Citation : (2011) 03 JH CK 0096

Hon'ble Judges : R.R. Prasad, J

Bench : Single Bench

Judgement

R.R. Prasad, J.—Heard learned Counsel appearing for the Petitioner and learned Counsel appearing for the Respondents.

Learned Counsel appearing for the Petitioner submits that this Court while disposing of the several writ applications, vide order dated 10.1.2011 passed an order that age of superannuation of the writ Petitioner would stand extended to 65 years. Further it was observed that as a consequence where of the Petitioner who was in service but was made to retire on 30.6.2010 or thereafter on attaining the age of 62 years would be entitled to the benefit of extended age of superannuation as a result of which they are to be taken back in service with continuity and all consequential benefits. Pursuant to that order the Petitioner on the very next day, i.e. on 11.1.2011 made an application before the Registrar, Ranchi University. Ranchi requesting therein to issue a notification in terms of the order passed by the Court. When nothing was done, the Petitioner again filed an application on 20.1.2011 and on 31.1.2011 before the Registrar. Ranchi University. Ranchi but the Registrar did not pay any heed to it and therefore, there was no option left to the Petitioner but to move the application for contempt.

2. Learned Counsel further submits that on being noticed, opposite parties 2 and 3 have filed an affidavit wherein in one of the paragraphs of the affidavit it has been stated that the University has moved the matter before the State Government and the University will abide by the direction of the State

Government which statement is sufficient to hold opposite parties 2 and 3 guilty of the contempt of Court.

3. As against that, Mr. Mehta, learned Counsel appearing for the Ranchi University submits that against the order passed by this Court the State Government has preferred L.P.A and therefore, in view of the decision rendered in a case of Modern Food Industries (India) Ltd. and Anr. v. Sachidanand Dass and Anr., 1995 Supp.(4) SCC 465 , this Court should not proceed with the matter relating to contempt when the L.P.A is pending for hearing, as according to Hon"ble Supreme Court both the matters i.e. L.P.A and the Contempt Case are desirable to be heard simultaneously.

4. Admittedly, L.P.A has been preferred not either by opposite party No. 2 or opposite party No. 3 but by the State government. That L.P.A according to learned Counsel appearing for the Petitioner is defective and the Appellant has never taken any care to remove the defects so that the same be listed under the heading for admission. This fact at least indicates that hearing of the L.P.A is being delayed and the opposite parties 2 and 3 who have never preferred L.P.A have been taking advantage of that.

5. Be that as it may, it be recorded that as per the order passed by this Court, it is opposite party No. 2 who is to do needful in the matter of continuance of the Petitioner on the post which he was holding before he was made to retire. However taking into account the stand taken on behalf of opposite parties 2 and 3.

6. Let this case be listed after three weeks on 18.4.2011 to facilitate them to do needful so that necessary decision in compliance of the order of this Court be taken.

7. It is made clear that if opposite parties 2 and 3 would fail to comply the order passed by this Court, this Court will proceed with this matter of contempt.