
(2012) 03 JH CK 0190
In the Jharkhand High Court
Case No : Writ Petition (S) No. 1833 of 2002

Jagdish Das

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 29-03-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 3 JCR 29

Hon'ble Judges : P.P. Bhatt, J

Bench : Single Bench

Advocate : Rajiv Sinha, Bhupal Krishna Prasad and Rohit Sinha, for the Appellant;

Final Decision : Allowed

Judgement

P.P. Bhatt, J.—Heard the learned counsel for the petitioner as well as learned counsel for the State. Perused the papers.

2. The petitioner, by way of this petition under Article 226 of the Constitution of India, has prayed for issuance of an appropriate writ/order/direction for quashing the office order dated 23.03.2001 vide Memo No. 15419 (Annexure-14), by which the service of the petitioner has been terminated.

3. It is the case of the petitioner that he was appointed on 04th September, 1981 initially for a period of six months on temporary basis, but subsequent thereto from time to time, his appointment was extended and continued up to March, 2001. The respondent vide its order dated 23rd March, 2001 terminated the services of the petitioner.

4. The respondents have taken a stand in their counter-affidavit that though there was a ban on the appointment, the initial appointment of the petitioner took place and therefore, when it was noticed by the higher authorities, the services of the petitioner was ordered to be terminated vide order dated 23rd March, 2001.

5. The learned counsel for the petitioner submitted that in similar set of facts," C.W.J.C. No. 1118 of 2001 with 1120 of 2001 with 1371 of 2001 with 1634 of 2001 with 2059 of 2001 with 3573 of 2001 a group of matters was decided by the Patna High Court vide its order dated 07th March, 2001. The learned counsel for the petitioner has pointed out from the relevant paragraphs of the said judgment that similar facts and questions of law were involved in those petitions. It is further submitted that being aggrieved and dissatisfied by the said order, the respondents preferred Letters Patent Appeal bearing Nos. L.P.A. No. 540 of 2001 with 541 of 2001 with 542 of 2001 with 543 of 2001 with 544 of 2001 with 545 of 2001 with 551 of 2001 with 552 of 2001 with 562 of 2001 with 672 of 2001 with 675 of 2001 with 682 of 2001 with 683 of 2001 with 691 of 2001 with 693 of 2001 with 698 of 2001 with 705 of 2001 with 707 of 2001 with 709 of 2001 with 711 of 2001 (Annexure-18). It is also submitted that the said Letters Patent Appeals were dismissed by the Patna High Court vide its order dated 25.04.2003.

6. As against that, the learned counsel for the respondents submitted that the appointment of the petitioner in September, 1981, was an illegal appointment, as there was a ban on such appointments and therefore, the petitioner's services cannot be regularized. Considering the aforesaid rival submissions and on perusal of the materials on record, it appears that the petitioner was appointed vide order dated 4.9.1981 initially for a period of six months on temporary basis and from time to time, the appointment of the petitioner was extended up till March, 2001. It appears that vide order dated 23.03.2001, the respondents passed an order of termination. It appears that in similar set of facts, the Patna High Court allowed a batch of writ petitions and quashed the order of termination. On perusal of the judgment, referred to and relied on by the learned counsel for the petitioner, rendered in C.W.J.C. No. 1118 of 2001 with 1120 of 2001 with 1371 of 2001 with 1634 of 2001 with 2059 of 2001 with 3573 of 2001, it becomes clear that the facts of the present case is identical to the facts of the above-referred cases filed before the Patna High Court. It also appears that the respondents being aggrieved and dissatisfied with the said order, preferred a group of L.P.As. bearing Nos. L.P.A. No. 540 of 2001 with 541 of 2001 with 542 of 2001 with 543 of 2001 with 544 of 2001 with 545 of 2001 with 551 of 2001 with 552 of 2001 with 562 of 2001 with 672 of 2001 with 675 of 2001 with 682 of 2001 with 683 of 2001 with 691 of 2001 with 693 of 2001 with 698 of 2001 with 705 of 2001 with 707 of 2001 with 709 of 2001 with 711 of 2001 (Annexure-18) before the Patna High Court but the said L.P.As. have been dismissed/rejected and thereby the order passed by the learned single Judge has been confirmed. There-fore, the arguments advanced by the learned counsel for the respondents cannot be accepted, as similar contentions were also raised before the Patna High Court but the same were not accepted while deciding the above referred C.W.J.C. and L.P.A. and the petitions were ordered to be allowed. Since the facts of the present case is similar to that of the above-referred cases, the ratio laid down in the aforesaid judgments is applicable to the facts and circumstances of the present case. Under the circumstances, the present petition

deserves to be allowed. Accordingly, this writ petition is allowed. The order of termination dated 23.03.2001 (Annexure-14) is hereby quashed. The Respondents are directed to treat the petitioner in continuous service with all consequential benefits.