
(2010) 09 JH CK 0082

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5757 of 2009

Kamlesh Kumar Rai

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 16-09-2010

Acts Referred:

Citation : (2011) 1 JCR 261

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Heard the learned Counsel for the petitioner and the learned Counsel for the Respondents.

2. The petitioner, in this application, has prayed for issuance of an appropriate writ for quashing the impugned Notification dated-12.10.2009 (Annexure-11), issued by the Respondent No. 3 by which the petitioner's services is sought to be returned to be purported parent department, namely, Sanjay Gandhi Cooperative Soot Mill Limited, Irba Ranchi (Sanjay Gandhi Co-operative Weaver's Spinning Mills Ltd., Irba, Ranchi).

3. The grievance of the petitioner is that his services were placed on deputation initially in the Ranchi Municipal Corporation, where he worked for eight years and thereafter, he was shifted to work under the Respondent-M.A.D.A. During the aforesaid period, his salary for the period 20.11.2007 to 24.02.2008 was not paid, though his salary for the period March, 2009 to May, 2009 was paid to him. Even under the M.A.D.A., though the arrears of salary was accumulated but the same have not been paid to him.

4. Learned Counsel for the petitioner submits that even as admitted in the counter affidavit of the Respondent No. 7, Sanjay Gandhi Co-operative Weaver's Spinning Mills Ltd., to whom the petitioner is sought to be repatriated, has been closed since years and under such circumstances, the services of the petitioner cannot possibly be accepted by a closed unit. Learned Counsel adds that as

informed by the counter affidavit of the Respondent No. 7, the aforesaid unit comes under the Directorate of Handlooms, Department of Industries, State of Jharkhand but even such department has not been addressed for accepting the petitioner's services. It is further submitted that the petitioner is an Assistant Engineer and is presently working under the Respondent-M.A.D.A. and quite a number of posts of Assistant Engineers is vacant under the M.A.D.A. for which an advertisement has also been issued by the Urban Development Department. The petitioner's services could have been regularized under the M.A.D.A. itself against the existing vacancies as has been done in the case of several persons during the period of undivided Bihar.

5. Learned Counsel for the State acknowledges the fact that the Sanjay Gandhi Co-operative Weaver's Spinning Mills Ltd. has been closed down since long. Learned Counsel explains that as regards the petitioner's claim for his absorption under the M.A.D.A. or some other unit under the Urban Development Department, it would be a matter for the State Government to take a policy decision on this issue.

6. Be that as it may, the repatriation of the petitioner to a closed unit does not make any sense in view of the fact that there is no such unit which could possibly accept the services of the petitioner. It appears that the impugned notification has been issued even without considering this aspect of the matter. If at all, the petitioner's services were no more required, then his repatriation could have been done only to such Department, which is in existence and which could have possibly accepted the petitioner's services.

7. In the light of the above facts and circumstances, the impugned Notification, dated-12.10.2009 (Annexure-11) is hereby quashed. The Respondent-M.A.D.A. shall, however be at liberty to take an appropriate decision if it intends finally to repatriate the petitioner's services to such existing unit, which could accept his services. Alternatively, the Respondent-M.A.D.A./Urban Development Department may consider the possibility of absorbing the petitioner in its own services in accordance with the Rules of procedure.

8. The petitioner shall be allowed to continue to work under the Respondent-M.A.D.A. till an appropriate decision on the above issue is taken.

9. With these observations, this writ application stands disposed of.