

(2012) 06 JH CK 0069
In the Jharkhand High Court
Case No : Writ Petition (S) No. 1100 of 2007

Kedar Nath

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-06-2012

Acts Referred:

Citation : (2012) 4 JCR 143

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Sujit Narayan Prasad, for the Appellant; P. Modi, GP-I, for the Respondent

Final Decision : Allowed

Judgement

Alok Singh, J.—Petitioner, who was working as Superintending Engineer, was given officiating charge of Chief Engineer on 07.09.2001 and is continuing as such on the post of Chief Engineer. Vide Annexure 3 dated 14.12.2005, the petitioner was directed to be promoted on the post of Chief Engineer w.e.f. 07.09.2001 with the stipulation that he will not be entitled for the salary of Chief Engineer from the retrospective date and shall be paid w.e.f. 14.12.2005. Petitioner, being aggrieved, has invoked writ jurisdiction of this Court. Learned counsel for the petitioner has vehemently argued that since the petitioner was working on the post of Chief Engineer w.e.f. 07.09.2001 and there was vacancy available and he was never removed from the post of Chief Engineer, therefore, vide order dated 14.12.2005, while promoting on the post of Chief Engineer, the salary of the Chief Engineer w.e.f. 07.09.2001 must be paid to the petitioner.

2. Rule 58 of Jharkhand Service Code reads as under :

58. (a) Subject to any exceptions specifically made in these rules and to the provisions of clause (b) of this rule, a Government servant shall begin to draw the pay and allowances attached to his tenure of a post with effect from the date on which he assumes the duties of that post, and shall cease to draw them as

soon as he ceases to discharge those duties.

(b) Unless in any individual case the State Government otherwise direct a person recruited overseas shall commence to draw pay on first appointment as follows :

(i) in the case of a person who receives a first class passage to India, from the date of his arrival in India, [subject to his proceeding to take up his duties without avoidable delay].

(ii) in the case of a person who receives a second class passage to India from the date of his embarkation for India.

3. From the perusal of the Rule, It is thus clear that the Government servant shall begin to draw the pay and allowances attached to his tenure of a post with effect from the date on which he assumes the duties of that post.

4. Since, the petitioner assumed the post of Chief Engineer w.e.f. 07.09.2001, therefore, after permanent promotion on the said post, he is entitled to get the salary of Chief Engineer w.e.f. 07.09.2001. In view of the above discussions, this writ petition is allowed directing the respondents to release the entire arrears of salary to the petitioner w.e.f. 07.09.2001 within 60 days from today.