
(2006) 08 PAT CK 0069

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 7279 of 2006

Kedar Prasad

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 29-08-2006

Acts Referred:

Citation : (2006) 08 PAT CK 0069

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Advocate : Dhruba Mukherjee, Rajnikant Jha, Rakesh Kumar Singh, S.B. Kumar, S.C. XVI, for the Appellant; Ravi Ranjan, Assistant Solicitor General, for the Respondent

Final Decision : Allowed

Judgement

Aftab Alam, J.—Heard Mr. Rajnikant Jha, Counsel for the petitioner, Mr. S.B. Kumar, S.C. XVI, Mr. Rakesh Kumar Singh appearing for the State Advisory Committee and Mr. Dhrub Mukherjee representing the State of Jharkhand.

2. The petitioner is aggrieved by the allocation of his service to the State of Jharkhand as Steno Sub-Inspector and he seeks to challenge the orders issued in this regard by the Central Government and the order relieving him from his present post by the Government of Bihar. The petitioner is not so much aggrieved by the allocation of his service to the State of Jharkhand as by the decision to send him on the post of Steno Sub-Inspector in a lower scale of pay. The grievance of the petitioner appears to be totally justified and the stand of the Government of Bihar that has led to the anomalous situation with regard to the petitioner appears quite curious to the Court. The undeniable facts of the case may be stated thus.

3. The State of Bihar was bifurcated by the State Re-Organisation Act coming into force on 15.11.2000. On that date, the petitioner was working as Steno Sub-Inspector in the scale of 5000-8000. On 4.9.2001 when the process of cadre

division was still at a very early stage, the I.G. (Administration), Bihar, Patna on the direction of the Directorate General of Police and the Inspector General of Police issued the order under memo No. 8718 (Annexure-13) by which 22 Steno Sub-Inspectors were reverted in the general police cadre in the rank of Sub-Inspector of Police and were given the higher scale of 5500-9000. The reversion and the grant of higher scale of pay was made effective from the retrospective date 1.8.1998. The order covered a number of Officers some of whom were at that time posted in the State of Jharkhand and some others, like the petitioner, were posted in the divided State of Bihar.

4. It may further be stated here that according to the petitioner, he had given his option for the State of Bihar and a receipt showing submission of the option is at Annexure-9 to the writ petition.

5. In the relevant particulars sent by the Government department to the State Advisory Committee, there was no mention of any option given by the petitioner. Working on that basis, the State Advisory Committee in its tentative allocation put the petitioner in the list for Jharkhand and showed him as Steno Sub-Inspector.

6. The petitioner then made a representation objecting both to the allocation of his service to Jharkhand and being shown as Steno Sub-Inspector. The State Advisory Committee forwarded the petitioner's representation to the concerned department for verification and its comments. Strangely, the Police Department once again wrote to the State Advisory Committee reiterating that the petitioner was Steno Sub-Inspector and, on that basis, in the final allocation list also, the petitioner's service was allocated to the State of Jharkhand and consequently orders were passed by the Central and the State Governments.

7. In the counter affidavit filed on behalf of the State of Bihar, it is stated that on 15.11.2000 the date of bifurcation of the State, the petitioner was working as Steno Sub-Inspector. That being the relevant date for the purpose of allocation of service, his case could only be considered as Steno Sub-Inspector and not as Sub-Inspector in the higher scale of pay.

8. The Court finds it difficult to accept the submission for a moment. The allocation of services of individual employees following the division of the State can not be made causing unreasonable prejudice and loss to some one by putting him in a lower scale of pay. More over, it is incorrect to say that on 15.11.2000 the petitioner was a Steno Sub-Inspector because such a stand overlooks the fact that the order dated 4.9.2001 was effective retrospectively from 1.8.1998. By virtue of that order, the petitioner was Sub-Inspector in the general cadre of police in a higher scale of pay.

9. Here, it would not be out of place to refer to a Division Bench decision of this Court in Sheoraj Prasad Vs. The State of Bihar and Another . In that decision, it was held that the posts of Steno Sub-Inspectors/Assistant Steno Sub-Inspector and those of Sub-Inspector/ Assistant Sub-Inspector belong to two entirely

different cadres.

10. Thus, the petitioner's allocation to Jharkhand as Steno Sub-Inspector is bad on two counts; it puts the petitioner in a lower scale of pay (on a post from which he has already been promoted) and in a different cadre from his present one.

11. For all those reasons, the impugned decision and the consequential orders are quite illegal and untenable. The recommendation of the State Advisory Committee and the decision of the Central Government based on the Committee's recommendation and the consequential orders issued by the State of Bihar are quashed and the concerned authorities are directed to treat the petitioner as an employee of the Government of Bihar in the rank of Sub-Inspector of Police until such time a fresh decision of allocation of his service is taken in accordance with law.

12. In the result, this writ petition is allowed but with no order as to costs.

13. In case, the petitioner eventually stay in Bihar, it would be open to the State Advisory Committee/the Central Government to take appropriate steps for a suitable replacement for the State of Jharkhand.