
(2006) 07 JH CK 0118
In the Jharkhand High Court
Case No : C.W.J.C. No. 2391 of 1995 (R)

Krishna Kant Das and Others

APPELLANT

Vs

Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 13-07-2006

Acts Referred:

Citation : (2006) 4 JCR 177

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : R.N. Sahay, for the Appellant; A.K. Jha, for the Respondent

Judgement

Amareshwar Sahay, J.—The present petitioners being the Assistant Operators have prayed for quashing of the office order dated 17.1.1995 contained in Annexure-4, issued by respondent No. 5, General Manager, Patratu Thermal Power Station, (hereinafter called as P.T.P.S. for the sake of convenience) of the Bihar State Electricity Board, (hereinafter called as B.S.E.B.), by which it was decided to cancel/withdraw the benefit of upgraded scale of pay extended to the petitioners w.e.f. 1.1.1989.

2. The case of the petitioners is that they were appointed as Assistant Operators by issue of Annexure-1 dated 30.12.1983 by the competent authority and since then they were working as such.

It is stated that pursuant to the standing order No. 684 dated 1.9.1988 and Resolution No. 264 dated 28.2.1986 of B.S.E.B., 38 posts of Assistant Operators in the Scale of 665-16-777-20-967 were upgraded in the scale of 725-18-905-20-1005-22-1115 for the removal of stagnation with effect from 1.1.1985 and, thereby, the petitioners were allowed to draw the said higher scale of pay by removal of stagnation with effect from 1.1.1989 and with effect from 5.8.1989 by issue of Office order dated 23.6.1989 (Annexure-2) and Office order dated 12.10.1989 (Annexure-2/A). Subsequently, by issue of Annexure-3, i.e. the letter dated 31.7.1992, B.S.E.B., Patna under the signature of its Secretary

informed the General Manager of P.T.P.S. and others that the Board has decided to confirm all the temporary employees as permanent, who were working prior to 31.12.1986.

3. The grievance of the petitioners is that the respondent No. 5 by issue of Annexure-4 has suddenly withdrawn/cancelled the benefit of higher scale of pay given to them by Annexure-2 and Annexure-2/A in most arbitrary manner and without any rhyme and reason. Prior to issuance of such order as contained in Annexure-4 no notice to show cause was also issued to the petitioners and, therefore, Annexure-4 was absolutely illegal and, as such, the same was liable to be quashed.

4. Mr. R.N. Sahay, learned Counsel appearing for the petitioners submitted that Bihar State Electricity Board's standing order No. 561 dated 1.7.1977 (Annexure-5) itself provided that 20 percent post of total number of post of each category was to be upgraded to the next higher scales of pay for the purpose of removal of stagnation and pursuant thereto the petitioners were provided the said benefit of higher scale of pay vide Annexures-2 and 2/A but without considering the same, wrongly and illegally the said benefit has been cancelled/withdrawn by the impugned order as contained in Annexure-4.

5. It was further submitted by the petitioners that though Annexure-4 was issued in the year 1995 but till date it is not been given effect to and the petitioners are still drawing the same pay scale which they were drawing prior to issuance of Annexure-4. However, it is stated that the respondents are preparing to reduce the scale of pay as per the order contained in Annexure-4 and they are also preparing to recover the differences of amount after reducing the pay scale of the petitioners. It is further stated that the petitioners have submitted representation against such an action of the respondents but nothing has been done so far in the matter by the respondents and no order has been passed in that regard by them.

6. The claim of the petitioners has been contested by the respondents on various grounds, which have been stated in the counter affidavit but in view of the nature of the order, which I propose to pass, it is not necessary to go in detail of the same.

7. There is a specific statement of the petitioners in the writ petition in paragraph 14 to the effect that though the order as contained in Annexure-4 has been passed in 1995 but it has not yet been given effect to. It is necessary to quote the said statement made in paragraph 14 of the writ petition:

14. That it is relevant to mention here that though the order at Annexure-4 has been passed in the year January, 1995, but the scale has not been reduced but the respondents have now prepared a chart for reducing the scale in the light of Annexure-4 and also order is being passed for recovery of those scale which has been given vide Annexures-2 and 2/A till date against which the petitioners have already filed a representation before the respondents but no action has been

taken and the respondents have now determined to comply the impugned order (Annexure-4) now though the petitioners are getting in the scale of Rs. 1400/- to 2450/-till date.

This statement of the petitioners has neither been denied nor has been controverted by the respondents in their counter affidavit.

8. It has also not been disputed by the respondents that the petitioners were getting the benefit of upgraded scale of pay since 1989 and the same has been withdrawn in the year 1995 by issue of Annexure-4 but the same has not been given effect to till date and, therefore, in my view, the ends of justice and fair play require that the petitioners must be given a chance to place their case/ grievance before the competent authority before any order adversely affecting them is passed.

9. Accordingly, this writ application is being disposed of by directing the Secretary, Jharkhand State Electricity Board, to consider the grievance of the petitioners, decide their claims in accordance with law by a speaking and reasoned order after hearing the petitioners or their representatives within a period of two months from the date of receipt/production of a copy of this order.

10. Till the matter is decided by the Secretary of Jharkhand State Electricity Board, as indicated in this order, the order as contained in Annexure-4 shall not be given effect to and be kept in abeyance.

11. With the above, observations and directions this writ application is disposed of. Appeal disposed of.