

(2002) 12 JH CK 0010
In the Jharkhand High Court
Case No : C.W.J.C. No. 2062 of 1998 (P)

Lal Mohan Pathak

APPELLANT

Vs

B.S.R.T.C. and Others

RESPONDENT

Date of Decision : 10-12-2002

Acts Referred:

Citation : (2003) 1 JCR 312

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : C.S. Prasad, for the Appellant; P.P.N. Roy, S.C. and Praveen Kumar, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—The petitioner was dismissed from the services of the Bihar State Road Construction Corporation. The order of dismissal was forwarded to the Presiding Officer, Industrial Tribunal, Patna for approval u/s 33(2)(b) of the I.D. Act, 1947.

2. The learned Presiding Officer did not choose to approve the dismissal order, it having not passed in accordance with law. It was challenged by the Corporation before this Court in C.W.J.C. No. 9302 of 1994, which was dismissed by a reasoned order dated 7.7.1995. The Corporation also lost before the appellate Court in L.P.A. No. 920 of 1995. The Corporation thereafter moved before the Supreme Court, but the Supreme Court also refused to interfere with the order passed by the learned Presiding Officer, Industrial Tribunal, Patna and dismissed the SLP (Civil) No. 990 of 1997, vide order dated 27th January, 1997.

3. In view of the fact that the order of dismissal was not affirmed and thereby it was never given effect as per law, the respondents should have reinstated the petitioner. Though they lost upto Supreme Court, but did not choose to reinstate the petitioner accepting his joining.

4. In this background, this writ petition was preferred by the petitioner in the year 1998, but for the last more than four years, no step was taken by the

Corporation.

5. The counsel for the Corporation submitted that a Civil Appeal No. 87-88 of 1996 is pending before the Supreme Court, wherein similar question has been raised.

However, he accepts that the petitioner is not a party to the said appeal.

6. So far as the case between the petitioner and the Corporation is concerned, it reached finality after the order of dismissal passed by the Supreme Court in SLP (Civil) No. 990 of 1997. Such finality having reached, now it is not open for the Corporation to rely on any order or orders, as may be passed by one or other Court to annul the order which reached finality between the petitioner and the Corporation.

7. In the aforesaid background, it is not necessary to await decision in Civil Appeal No. 87-88 of 1996 and for the said reason, I heard the case after recalling the order dated 5th April, 1999.

8. It is a fit case in which cost should have been imposed against the counsel obtained time to produce an order of reinstatement.

9. The Court observed that if respondent failed to produce any order of reinstatement, the Court may proceed-further and may ask the Administrator of the Corporation to be present in Court.

10. Today, the counsel for the Corporation produced an order No. 709 dated 9th December, 2002 reinstating the petitioner. However, therein it is mentioned that in view of order passed by this Court on 20th November, 2002 and 25th November, 2002, the petitioner has been reinstated.

11. According to me, the first part of the order is not based on any document. Therefore, the first part of the order that the petitioner has been reinstated by the order of the Court is set aside. The petitioner stands simply reinstated as per Office Order No. 709 dated 9th December, 2002.

12. In the facts and circumstances, no further order is required to be passed.

13. So far as arrears is concerned, the petitioner may move before the Administrator.

The writ petition stands disposed of.